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STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
11 STATE HOUSE STATION
AUGUSTA, ME 04333-0011

July 17, 2003

TO: Interested Parties

FROM: Christine Zukas-Lessard, Acting Director, Bureau of Medical Services

SUBJECT: Adopted Rule: Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded, of the MaineCare Benefit Manual.

Attached, please find a copy of the proposed rules, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded, of the MaineCare Benefit Manual. The effective date of this rule is 8/1/03.

Revisions to this rule make the Health Care Provider Tax, as defined in state law 36 M.R.S.A. §2872, an allowable expense, eliminate the “bonus” payments for facilities with lower costs, remove the out-dated day habilitation cost calculation, and make numerous wording and grammatical changes stemming from the changeover in program title from “Medicaid” to “MaineCare.”

Rules and related rulemaking documents may be reviewed at and printed from the Bureau of Medical Services website at <http://www.state.me.us/bms/rulemaking/> or, for a fee, interested parties may request a paper copy of rules by contacting Victoria Waller at (207) 287-9368 or TTY: (207) 287-1828 or 1-800-423-4331.

If you have any questions regarding the attached policy, please contact your Provider Relations Specialist at 287-3094, or 1-800-321-5557, extension option 9 or TTY: (207) 287-1828 or 1-800-423-4331.

10-144 CHAPTER 101
MAINECARE BENEFITS MANUAL
CHAPTER III

SECTION 50 INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED

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INTRODUCTION

PURPOSE

Eff 8/1/03 The purpose of these Principles is to comply with Section 1902(a)(13)(A) of the Social Security Act and the Rules and Regulations published thereunder (42 CFR Part 447) namely: to provide for payment to Intermediate Care Facilities for the Mentally Retarded (ICF-MR's) through the use of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards.

The Authority of the Department of Human Services to accept and administer any funds which may be available from private, local, State or Federal sources for the provision of the services set forth in these Principles of Reimbursement is established in Title 22 of the Maine Revised Statutes Annotated, §§ 10 and 12. The regulations themselves are issued pursuant to authority granted to the Department of Human Services by Title 22 of the Maine Revised Statutes Annotated §42(I).

DEFINITIONS

The term Department as used throughout these Principles is the State of Maine Department of Human Services.

The term Designated Planning Agency as used throughout these Principles is the State of Maine Department of Human Services functioning as the Designated Planning Agency under Section 1122 of Public Law 92-603, the Social Security Amendments of 1972.

The term State Licensing and Federal Certification as used throughout these principles are the "Regulations Governing the Licensing and Functioning of Intermediate Care Facilities for the Mentally Retarded" and the Federal Certification requirements for Intermediate Care Facilities for Mentally Retarded that are in effect at the time the expense is incurred.

Eff 8/1/03 The term "BDS" as used throughout these principles means the Mental Retardation Services division of the Department of Behavioral and Developmental Services.

REIMBURSEMENT METHOD

Eff 8/1/03 The Department will reimburse an ICF-MR on the basis of a prospectively determined rate on cost reporting forms provided by the Department (See section 7000 PROSPECTIVE METHOD OF PAYMENT for details of the Prospective Reimbursement System).

All long-term care facilities are required to submit Annual Cost reports as prescribed herein to the State of Maine Department of Human Services, Division of Health Care Audit, 11 State House Station, Augusta, Maine 04333-0011. Such cost reports shall be based on the fiscal year of the facility.

ALLOWABILITY OF COSTS

A determination of whether or not a cost is allowable and interpretations of definitions, not specifically detailed in these Principles, will be based on Medicare Provider Reimbursement Manual (HIM-15) guidelines and Internal Revenue Service guidelines in effect at the time of such determination.

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EFFECTIVE DATE

Eff 8/1/03 These Principles apply to reimbursement for all Intermediate Care Facilities for the Mentally Retarded services rendered on and after July 1, 2003.

PUBLIC HEARINGS

The State of Maine will provide for public hearings as necessary in our State Plan, according to State procedures.

WAIVER

The failure of the Department to insist, in any one or more instances, upon the performance of any of the terms or conditions of these Principles, or to exercise any right under these Principles, or to disapprove of any practice, accounting procedure or item of account in any audit, shall not be construed as a waiver of future performance of the right. The obligation of the Provider with respect to future performance shall continue, and the Department shall not be estopped to require such future performance.

LIMITATIONS ON REOPENING AUDITS

No final audit shall be reopened, nor shall any hearing be allowed concerning any matter contained in any final audit, after three years following the date of the final audit settlement. This limitation does not apply in the event of fraud or misrepresentation.

1000 COST RELATED TO PATIENT CARE

1010 Principle

Eff 8/1/03

Federal law requires that payment for long term care facility services provided under MaineCare shall be provided through the use of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care services in conformity with applicable state and Federal laws, regulations, and quality and safety standards. Costs incurred by efficiently and economically operated facilities include costs which are reasonable, necessary and related to patient care, subject to principles relating to specific items of revenue and cost.

1011 Costs must be ordinary and necessary and related to resident care. They must be of the nature and magnitude that prudent and cost conscious management would pay for a specific item or service.

1012 Costs must not be of the type conceived for the purpose of circumventing the regulations. Such costs will be disallowed under the principle that the substance of any transaction will prevail over form.

1013 Costs that relate to inefficiency, unnecessary or luxurious care or unnecessary or luxurious facilities and to activities not common and accepted in the field of mental retardation services are not allowable.

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1014 Compensation to be allowable must be reasonable and for services that are necessary and related to resident care habilitation and active treatment and pertinent to the operation of the facility. The services must actually be performed and must be paid in full. The compensation must be reported to all appropriate state and federal tax authorities to the extent required by law for income tax, social security, and unemployment insurance purposes.

1015 Costs incurred to comply with changes in federal or state laws and regulations for increased care, habilitation treatment and improved facilities are to be considered reasonable and necessary costs.

| Eff 8/1/03

1016 Costs incurred for resident services that are rendered in common to MaineCare residents, as well as to non-MaineCare residents will be allowed on a pro rate basis unless there is a specific allocation defined elsewhere in these Principles.

1020 Definitions

1021 Reasonable Costs are those costs incurred by a provider which are reasonable and necessary in providing care, rehabilitation, and treatment to publicly aided residents and which are within the requirements and limitations of these principles of reimbursement. The reasonableness and necessity of any costs shall be determined by reference to or in comparison with the costs of providing comparable services, the MaineCare Benefits Manual or absolute costs related to resident's unique circumstances and needs.

| Eff 8/1/03

1022 Allowable Costs are the operating costs after the adjustment required by the Principles have been applied to the provider's total operating costs as reported in the annual costs reports.

1023 Necessary and Proper Costs are those which are appropriate and helpful in developing and maintaining the efficient and economical; operation of resident care and habilitation facilities and activities. They are usually costs which are common and accepted occurrences in the field of mental retardation.

2000 COST FINDING AND COST REPORTING

2010 Cost Report Periods. All long-term care facilities are required to submit annual cost reports as prescribed herein to the State of Maine, Department of Human Services, Division of Health Care Audit, 11 State House Station, Augusta, Maine 04333-0011. Such cost reports shall be based on the fiscal year of the facility.

2020 Accounting Principles. Beginning July 1, 1982, the allowable costs shown in all cost reports described herein shall be on the basis of generally accepted accounting principles and the accrual method of accounting except that, for governmental institutions operated on a cash method of accounting, data based on such a method of accounting will be accepted. Any other providers who maintain their records on a cash basis should record such accruals as adjustments.

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- 2021 Generally accepted accounting principles means accounting principles approved by the American Institute of Certified Public Accountants.
- 2022 Accrual method of accounting means that revenue is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.
- 2022.1 All year end accruals must be paid by the facility within six(6) months after the end of the fiscal year in which the amounts are accrued. If the accruals are not paid within such time, these amounts will be deducted from allowable costs incurred in the subsequent fiscal year.
- 2023 Cash method of accounting means that revenues are recognized only when cash is received and expenditures for expense and asset items are not recorded until cash is disbursed for them.
- 2030 Cost Finding. The unit of output for cost finding shall be the costs of routine services for each level of care per patient day. The same cost finding method shall be used for all levels of care in all long-term care facilities. Generally, total allowable costs shall be divided by the actual days of care to determine the cost per bed day. When long-term care facilities provide more than one level of care total allowable costs shall be allocated to each level based on the occupancy data reported for each level and the following statistical bases:
- 2031 Direct Care Staff Salaries. Services provided and hours of nursing care by licensed personnel and other qualified direct care staff.
- 2032 Other Nursing Staff. Nursing salaries cost allocations.
- 2033 Capital Costs. Square feet serviced.
- 2034 Plant operation and maintenance. Square feet, serviced.
- 2035 Housekeeping. Square feet serviced.
- 2036 Laundry. Patient days.
- 2037 Dietary. Number of meals served.
- 2038 General and Administrative and Financial and Other Expenses Total accumulated costs not including General and Administrative and Financial Expense.
- 2040 Cost Reports
- 2041 Forms. Attached hereto is a copy of the uniform cost report which shall be used for all long-term care facilities in the State of Maine.

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- 2042 When to File. The cost report and financial statements for each facility shall be filed not later than three months after the fiscal year end of the provider. When a provider fails to file an acceptable cost report by the due date, the department will send the provider a notice by certified mail, return receipt requested, advising the provider that all payments are suspended on receipt of the notice until an acceptable cost report is filed. Reimbursement will then be reinstated at the full rate from that time forward but, reimbursement for the suspension period shall be made at the deficiency rate of 90%. An extension of time, waiving the deficiency rate, may be approved by the Department for good cause.
- 2043 Rounding. Cents are omitted in the preparation of all schedules except when inclusion is required to properly reflect per diem costs or rates.
- 2044 Certification by operator. The cost report is to be certified by the owner and/or administrator of the facility. If the return is prepared by someone other than the owner, administrator or employee of the facility, the preparer should also sign the report.
- 2050 Record Keeping Requirements
- 2051 Providers must maintain accurate and auditable financial and statistical records which are in sufficient detail to substantiate their cost reports for a period of not less than three years following the date of final settlement with the Department of Human Services.
- 2052 These records of the provider shall include, but not be limited to, matters of provider ownership, organization, operation, fiscal and other record keeping systems, federal and state income tax information, asset acquisition, lease, sale, or other action, franchise or management arrangement, patient service charge schedule, matters pertaining to cost of operation, amounts of income received by service and purpose and flow of funds and working capital.
- 2053 When the Department of Human Services determines that a provider is not maintaining records as outlined above for the determination of reasonable cost under the program, the Department, upon determination of just cause, shall send a written notice to the provider of its intent to reduce payments to a 90% level of reimbursement in 30 days together with an explanation of the deficiencies. Payments shall remain reduced until the Department is assured that adequate records are maintained, at which time reimbursement will be reinstated at the full rate from that time forward. If upon appeal, the provider documents that there was not just cause for the reduction in payment, all withheld amounts will be restored to the provider.

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- 2054 Providers shall make such records available to representatives of the State of Maine Department of Human Services or the U.S. Department of Health, and Human Services.
- 2055 Overpayments found in audits will be accounted for on the OA-41 no later than the second quarter following the quarter in which the overpayment was found to be valid.

3000 ROUTINE SERVICE - CAPITAL COSTS

The "capital cost per diem rate" is determined from the sum of the following costs:

Depreciation on buildings and fixed equipment and land improvements, and amortization of leasehold improvements.

Interest on long term debts. (Real Estate only)

Real Estate Taxes and Fire Insurance Premiums.

Return on equity capital for proprietary providers.

In cases where facilities are rented, that portion of the rent attributable to the above items will be substituted and included as a capital cost.

All capital costs for boarding care portions of the facility are to be paid in addition to any ceiling established on routine service costs. Ceilings on boarding care costs will apply to routine service costs only and will not effect the actual capital costs.

3010 Depreciation. Allowance for depreciation Based on Asset Costs.

3011 Principle. An appropriate allowance for depreciation on buildings and equipment is an allowable cost. The depreciation must be:

3011.1 Identified and recorded in the provider's accounting records.

3011.2 Based on historical cost and prorated over the estimated useful life of the asset using the straight-line method.

3011.21 The total historical costs of a building as constructed or purchased becomes the basis for the straight line depreciation method. Component depreciation is not allowed except on those items listed below with their minimum useful lives:

Electronic Components	20 year life
Plumbing and Heating Components	25 year life
Central Air Conditioning Unit	15 year life
Elevator	20 year life
Escalator	20 year life
Central Vacuum Cleaning System	15 year life
Generator	20 year life

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3011.22 Any provider using the component depreciation that has been audited and accepted for cost reporting purposes prior to April 1, 1980, will be allowed to continue using this depreciation mechanism.

3011.3 Where an asset that has been used or depreciated under the program is donated to a provider, or where a provider acquires such assets through testate or intestate distribution (e.g., a widow inherits a skilled nursing facility upon the death of her husband and becomes a newly certified provider), the basis of depreciation for the asset is the lesser of the fair market value, or the net book value of the asset in the hands of the owner last participating in the program. The basis for depreciation shall be determined as of the date of donation or the date of death, whichever is applicable.

3011.4 Depreciation on all property other than buildings, fixed equipment, land improvements, and amortization of leasehold improvements is an allowable cost subject to cost finding under Section 4000-Routine Services - Other Allowable Costs.

3011.5 Special Reimbursement Provisions for Energy Efficient Improvements

For the Energy Efficient Improvements listed below which are made to existing facilities on or after September 1, 1981, reimbursement will be allowed based on the length of the loan received with the limitations listed below:

CAPITAL EXPENDITURE

Up to \$5,000.00	Minimum depreciable period 3 years
From \$5,001.00 to \$10,000.00	Minimum depreciable period 5 years
\$10,001.00 and over	Minimum depreciable period 7 years

The above limitations are minima and if a loan is obtained for a period time in excess of these minima the depreciable period then becomes the length of the loan provided that, in no case shall the depreciable period exceed the useful life as spelled out in the Chart of Accounts published by the American Hospital Association.

The reimbursement for the Energy Efficient Improvements that are 100% financed will consist of reimbursement of the principal and interest payments, based on the length of the loan or the above listed minima. If no loans are obtained, then the depreciable lives

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will be based on the above minima. If only partially financed, then the interest and the principal payments will be reimbursed with the additional amounts. reimbursed on a depreciable basis limited to the minima lives as spelled out above.

If the total expenditure exceeds \$25,000.00, then prior approval for such an expenditure must be received in writing from the Department. A request for prior approval will be evaluated by the Department on the basis of whether such a large expenditure would decrease the actual energy costs to such an extent as to render this expenditure reasonable. The age and condition of the facility requesting approval will also be considered in determining whether or not such an expenditure would be approvable.

The reasonable Energy Efficient Improvements are listed below:

1. Insulation (fiberglass, cellulose, etc.)
2. Energy Efficient Windows or Doors for the outside of the facility including insulating shades and shutters.
3. Caulking or weather stripping for windows or doors for the outside of the facility.
4. Fans specially designed for circulation of heat inside the building.
5. Wood and Coal burning furnaces or boilers (not fireplaces).
6. Furnace Replacement burners that reduce the amount of fuel used.
7. Enetrol or other devices connected to furnaces to control heat usage.
8. A Device or Capital Expenditures for modifying an existing furnace that reduces the consumption of fuel.
9. Solar active systems for water and space heating.
10. Retrofitting structures for the purpose of creating or enhancing passive solar gain, if prior approved by the Department regardless of amount of expenditure. A request for prior approval will be evaluated by the Department on the basis of whether energy costs would be decreased to such an extent as to render the expenditure reasonable. The age and condition of the facility requesting approval will also be considered.

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11. Any other energy saving devices that might qualify as Energy Efficient other than those listed above must be prior approved by the Department for this Special Reimbursement provision. A request for prior approval will be evaluated to determine that the energy savings device is a reliable product and would decrease the energy costs of the facility making the expenditure reasonable in nature.

In the event of a sale of the facility the principal payments as listed above will be recaptured in lieu of depreciation.

3012 Definitions

3012.1 Historical cost. Historical cost is the cost incurred by the present owner in acquiring the asset. The historical cost shall not exceed the lower of:

3012.11 current reproduction cost adjusted for straight-line depreciation over the life of the asset to the time of the purchase;

3012.12 fair market value at the time of the purchase;

3012.13 the allowable historical cost of the first owner of record on or after July 18, 1984.

3013 Recording of depreciation. Appropriate recording of depreciation encompasses the identification of the depreciable assets in use, the assets historical costs, the method of depreciation, estimated useful lives, and the assets accumulated depreciation. The Chart of Accounts published by the American Hospital Association and publications of the Internal Revenue Service are to be used as a guide for the estimation of the useful life of assets.

3013.1 For new buildings constructed after April 1, 1980 the minimum useful life to be assigned is listed below:

Wood Frame, Wood Exterior	30 years
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Wood Frame, Masonry Exterior	35 years
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Steel Frame, or Reinforced Concrete Masonry Exterior	40 years
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If a mortgage obtained on the property exceeds the minimum life as listed above, then the terms of the mortgage will be used as the minimum useful life.

3014 Depreciation method. Proration of the cost of an asset over its useful life is allowed on the straight-line method.

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- 3015 Although funding of depreciation is not required, it is strongly recommended that providers use this mechanism as a means of conserving funds for replacement of depreciable assets, and coordinate their planning of capital expenditures with areawide planning activities of community and state agencies. As an incentive for funding, investment income on funded depreciation will not be treated as a reduction of allowable interest expense.
- 3015.1 Replacement reserves. Some lending institutions require funds to be set aside periodically for replacement of fixed assets. The periodic amounts set aside for this purpose are not allowable costs in the period expended, but will be allowed when withdrawn and utilized either through depreciation or expense after considering the usage of these funds. Since the replacement reserves are essentially the same as funded depreciation the same regulations regarding interest and equity will apply.
- 3015.2 If a facility is leased from an unrelated party and the ownership of the reserve rests with the lessor, then the replacement reserve payment becomes part of the lease payment and is considered an allowable cost in the year extended. If for any reason the lessee is allowed to use this replacement reserve for the replacement of the lessee's assets then during that year the allowable lessee will be allowed to depreciate the assets purchased in this situation.
- 3015.3 If a rebate of a replacement reserve is returned to the lessee for any reason it will be treated as a reduction of the allowable lease expense in the year reviewed.
- 3016 Gains and losses on disposal of assets. Gains and losses realized from the disposal of depreciable assets are to be included in the determination of allowable costs. The extent to which such gains and losses are includable is calculated on a proration basis recognizing the amount of depreciation charged or assumed in a period prior to the provider's participation in the program when the sale takes place within one year after termination.
- The recapture will be made in cash from the seller. During the first eight years of operation, all depreciation allowed on buildings and fixed equipment by the Department will be recaptured from the seller in cash at the time of the sale. From the 9th to the 15th year, all but 3% per year will be recaptured, and from the 16th to the 25th year, all 8% per year will be recaptured not to exceed 100%. Accumulated depreciation is recapturable to the extent of the gain on the sale.
- 3017 Limitation on the participation of capital expenditures. Depreciation is not allowable with respect to any capital expenditure in plant, property, and equipment related to resident care, which has not been submitted to the designated planning agency as required, or has been determined to be inconsistent with health facility planning requirements, or as deemed necessary by BDS.

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3020 Purchase, Rental, Donation, and Lease of capital Assets

3021 Purchase of facilities from related individuals and/or organizations

3021.1 Where a facility is purchased from an individual or organization related to the purchaser by common control and/or ownership; or

3021.2 Where a facility is purchased after April 1, 1980 by an individual related to the seller as

3021.21 a child,

3021.22 a grandchild,

3021.23 a brother or sister,

3021.24 a spouse of a child, grandchild, or brother or sister, or

3021.25 an entity controlled by a child, grandchild, brother, sister or spouse of child, grandchild or combination brother or sister thereof.

3021.3 Where a facility, through purchase, converts from a proprietary to a nonprofit status and the buyer and seller are entities related by common control and/or ownership; then the purchaser's basis for depreciation shall not exceed the seller's basis under the program, less accumulated depreciation recognized under the program. Also, accumulated depreciation of the seller under the program shall be considered as incurred by the purchaser for purposes of computing gains and applying the depreciation recapture rules (Principle 3016) to subsequent sales by the buyer. There will be no recapture of depreciation from the seller on a sale between stipulated related parties since no step-up in the basis of depreciable assets is permitted to the buyer.

3021.4 One-time exception to section 3021.2. At the election of the seller, section 3021.3 will not apply to a sale made to a buyer defined in section 3021.2 if

3021.41 the seller is an individual or any entity owned or controlled by an individual or related individuals who were selling assets to a "related party" as defined in section 3021.1 or 3021.2

3021.42 the seller has attained the age of 55 before the date of such sale or exchange; and

3021.43 during the twenty-year period ending on the day of the sale, the seller has owned and operated the facility for periods aggregating ten years or more; or

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- 3021.44 the seller has inherited the facility as property of a deceased spouse to satisfy the holding requirements under section 3021.43
- 3021.45 if the seller makes a valid election to be exempted from the application of 3021.3 the allowable basis of depreciable assets for reimbursement of interest and depreciation expense to the buyer will be determined in accordance with Principle 3012 as though the parties were not related.
- 3021.5 The one time exception to section 3021.2 applies to individual owners and not to each facility. If an individual owns more than one facility he must make the election as to which facility he wishes to apply this exception to.
- 3021.6 Limitation in the application of section 3021.4
- 3021.61 Section 3021.4 shall not apply to any sale or exchange by the seller if an election by the seller under section 3021.4 with respect to any other sale or exchange has taken place.
- 3021.62 Section 3021.4 shall not apply to any sale or exchange by the seller unless the seller
- 3021.621 immediately after the sale has no interest in the nursing home (including an interest as officer, director, manager, or employee) other than as a creditor, and
- 3021.622 does not acquire any such interest within 10 years after the sale of this or any other facility and
- 3021.623 agrees to file an agreement with the Department of Human Services to notify the Department that any acquisition as defined by the section 3021.522 has occurred.

If section 3021.62 is satisfied, section 3021.1 and section 3021.3 will also be satisfied.

If the seller acquires any interest defined by section 3021.622, then pursuant to the agreement the basis will revert to what the seller's basis would be if the seller had continued to own the facility, the amounts paid by the Title XIX program for depreciation, interest and return of owner's equity from the increase in basis will be immediately recaptured, and an interest rate of nine percent per annum on recaptured monies will be paid to the Department for sellers' use of the Title XIX monies. A credit against this, of the original amount of depreciation recapture from the seller will be allowed with any remaining amount of the original depreciation recapture becoming the property of the Department.

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- 3022 Basis of assets used under the program and donated to a provider. Where an asset that has been used or depreciated under the program is donated to a provider, the basis of depreciation for the asset shall be the lesser of the fair market value or the net book value of the asset in the hands of the owner last participating in the program. The net book value of the asset is defined as the depreciable basis used under the program by the asset's last participating owner less the depreciation recognized under the program.
- 3023 Allowances for depreciation on assets financed with Federal or Public Funds. Depreciation is allowed on assets financed with Hill Burton or other Federal or Public Funds.

LEASES AND OPERATIONS OF LIMITED PARTNERSHIPS

3024 Leases

3024.1 Information and Agreements Required for Leases.

If a provider wishes to have costs associated with leases included in reimbursement:

3024.11 A copy of the signed lease agreement is required.

3024.12 An annual copy of the federal income tax return of the lessee will be made available to representatives of the State of Maine Department of Human Services or the U.S. Department of Health and Human Services in accordance with section 2050.

3024.13 If the lease is for the use of a building and/or fixed equipment, the articles and bylaws of the corporation, trust indenture, partnership agreement, or limited partnership agreement of the lessor is required.

3024.3 Lease Arrangement Between Individuals or Organizations Not Related by Common Control or Ownership.

The allowable cost between two unrelated organizations is the lesser of:

3024.31 The actual costs calculated under the assumption that the lessee and the lessor are related parties; or

3024.32 The actual lease payments made by the lessee to the lessor.

If the cost as defined in section 3024.32 are less than the costs as defined in section 3024.31, then the difference can be deferred to a subsequent fiscal period. If in a later fiscal period, costs as defined in section 3024.32 exceed costs as defined in section 3024.31, the deferred costs may begin to be amortized. Amortization will increase allowable costs up to the level of the actual lease payments for any given year.

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These deferred costs are not assets of the provider for purposes of calculating allowable costs of interest or return of owners' equity, and except as specified, do not represent assets that a provider or creditor of a provider may claim is a monetary obligation from the Title XIX program.

3025 Sale and Leaseback Agreements and Rental Charges. Rental costs specified in sale and leaseback agreements incurred by providers through selling physical plant facilities or equipment to a purchaser not connected with or related to the provider, and concurrently leasing back the same facilities or equipment, are includable in allowable cost if these conditions are met:

3025.1 The rental charges are reasonable based on consideration of rental charges or comparable facilities and market conditions in the area, the type, expected life, condition and value of the facilities or equipment rented and other provisions of the rental agreements;

3025.2 Adequate alternate facilities or equipment which would serve the purposes are not or were not available at lower cost;

3025.3 The leasing was based on economic and technical consideration. If all these conditions are not met, the rental charge cannot exceed the amount which the provider would have included in reimbursable costs, had he retained legal title to the facilities or equipment, such as to the facilities or equipment, such as interest on mortgage, taxes, depreciation, insurance and maintenance costs.

3030 Interest Expense

3031 Principle. Necessary and proper interest on both current and capital indebtedness is an allowable cost.

3032 Definitions

3032.1 Interest. Interest is the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term, usually one (1) year or less, but in no event more than fifteen (15) months. This is usually for such purposes as working capital for normal operating expenses. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes, such as acquisition of facilities and equipment, and capital improvements. Generally, loans for capital purposes are long-term loans. Except as provided in subsection 3036, interest does not include interest and penalties charged for failure to pay accounts when due.

3032.2 Necessary. Necessary requires that the interest:

3032.21 Be incurred on a loan made to satisfy a financial need of the provider. Loans which result in excess funds or investments would not be considered necessary.

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- 3032.22 Be reduced by investment income except where such income is from gifts and grants, whether restricted or unrestricted, and which are held separate and not comingled with other funds. Income from funded depreciation is not used to reduce interest expense.
- 3032.3 Proper. Proper requires that interest:
- 3032.31 Be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market existing at the time the loan was made.
- 3032.32 Be paid to a lender not related through control or ownership, or personal relationship to the borrowing organization.
- 3032.4 Refinancing. Any refinancing of property mortgages or loans on fixed assets must be prior approved by the Department. If prior approval is not obtained any additional interest costs or finance charges will not be allowed.
- 3033 Borrower-lender relationship
- 3033.1 To be allowable, interest expense must be incurred on indebtedness established with lenders or lending organizations not related through control, ownership, or personal relationship to the borrower. Presence of any of these factors could affect the "bargaining" process that usually accompanies the making of a loan, and could thus be suggestive of an agreement on higher rates of interest or of unnecessary loans. Loans should be made under terms and conditions that a prudent borrower would make in arm's-length transactions with lending institutions. The intent of this provision is to assure that loans are legitimate and needed, and that the interest rate is reasonable. Thus, interest paid by the provider to partners, stockholders, or related organizations of the provider would not be allowable. However, interest on first or second mortgages held by stockholders, owners, relatives or related organizations of the provider, will be treated as an allowable cost if in line with the interest rates charged by lending institutions at the inception of the loan. Where the owner uses his own funds in a business, it is reasonable to treat the funds as invested funds or capital, rather than borrowed funds. Therefore, where interest on loans by partners, stockholders, or related organizations is disallowed as a cost solely because of the relationship factor, the principal of such loans shall be treated as invested funds in the computation of the provider's equity capital.
- 3033.2 Exceptions to the general rule regarding interest on loans from controlled sources of funds are made in the following circumstances. Where the general fund of a provider borrows from a donor-restricted fund and pays interest to the restricted fund, this interest expense is an allowable cost. The same treatment is accorded interest paid by the

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general fund on money borrowed from the funded depreciation account of the provider. In addition, if a provider of a facility operated by members of a religious order borrows from the order, interest paid to the order is an allowable cost.

- 3033.3 Where funded depreciation is used for purposes other than improvement, replacement, or expansion of facilities or equipment related to patient care, allowable interest expense is reduced to adjust for offsets not made in prior years for earnings on funded depreciation.
- 3034 Loans not reasonably related to patient care. Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost, are not considered to be for a purpose reasonably related to patient care.
- 3035 Interest expense of related organizations. Where a provider leases facilities from a related organization and the rental expense paid to the related organization is not allowable as a cost, costs of ownership of the leased facility are allowable costs of the provider. Therefore, in such cases, mortgage interest paid by the related organization is allowable as an interest cost to the provider.
- 3036 Interest on Property Taxes. Interest charged by a municipality for late payment of property taxes is an allowable cost when the following conditions have been met:
- 3036.1 The rate of interest charged by the municipality is less than the interest which a prudent borrower would have had to pay in the money market existing at the time the loan was made;
- 3036.2 The payment of property taxes is deferred under an arrangement acceptable to the municipality.
- 3036.3 The late payment of property taxes results from the financial needs of the provider and, does not result in excess funds; and
- 3036.4 Approval in writing has been given by the Department prior to the time period in which the interest is incurred. Any requests for prior approval must be received by the Department at least two weeks prior to the desired effective date of the approval.
- 3037 Limitation on the participation of capital expenditures. Interest is not allowable with respect to any capital expenditure in plant, property, and equipment related to patient care, which has not been submitted to the designated planning agency as required, or has been determined to be inconsistent with health facility planning requirements.
- 3040 Return on Equity Capital of Proprietary Providers.
- 3041 Principle. A reasonable return on equity capital invested and used in the provision of patient care is allowable as an element of the reasonable cost of covered services furnished to members by proprietary providers. The amount on an annual basis is ten percent (10%).

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- 3042 For the purposes of this subpart, the term "proprietary providers" is intended to distinguish providers, whether sole proprietorships, partnerships, or corporations, that are organized and operated with the expectation of earning profit for the owners, from other providers that are organized and operated on a nonprofit basis.
- 3043 For purposes of computing the allowable return, the provider's equity capital means;
- 3043.1 The provider's investment in plant, property and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds), and
- 3043.2 Net working capital maintained for necessary and proper operation of patient care activities.
- 3044 Notwithstanding anything on parts 3043.1-3043.2, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions stated under allowable interest expense, is includable in computing the amount of equity capital in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost.
- 3045 Acquisitions. The excess of the price paid for a facility or tangible assets over the historical cost, or the cost basis as determined (whichever is appropriate), is not includable in equity capital, and loans made to finance such excess portion of the cost of such acquisitions are excluded in computing equity capital.
- 3046 Computation of return on equity capital. For purposes of computing the allowable return, the amount of equity capital is the average investment during the reporting period. Return on investment as an element of allowable costs is subject to apportionment in the same manner as other elements of allowable costs.
- 3047 Unapproved capital expenditures. With respect to any capital expenditure, a provider's investment in plant, property, and equipment related to patient care, and funds deposited by a provider which leases plant, property, or equipment related to patient care which are found to be expenditures which have not been submitted to the designated planning agency as required, or have been determined to be inconsistent with health facility planning requirements, are not included in the provider's equity capital for computing the allowance for a reasonable return on equity capital.
- 3048 Exclusion from Computation of Average Equity Capital. For the purpose of computing average equity capital, the following are examples of items not to be included in the computation:

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- 3048.1 Notes and loans receivable from owners or related organizations.
- 3048.2 Goodwill.
- 3048.3 Unpaid capital surplus.
- 3048.4 Treasury Stock.
- 3048.5 Unrealized capital appreciation surplus.
- 3048.6 Cash surrender value of life insurance policies.
- 3048.7 Prepaid premiums on life insurance policies.
- 3048.8 Assets acquired in anticipation of expansion and not presently used in the provider's operation or in the maintenance of patient care activities during the rate period.
- 3048.9 Inter-company accounts.
- 3048.10 The portion of the value of any motor vehicle that is attributed to personal use.
- 3048.11 Any other assets not directly related to or necessary for the provision of patient care to publicly-aided patients.
- 3048.12 Funded Depreciation.

4000 ROUTINE SERVICES - OTHER ALLOWABLE COSTS

4010 Other Allowable Coats.

- 4011 Principle. All expenses which providers must incur to meet state licensing and federal certification standards are allowable.

Allowable costs shall also include all items of expense which efficient and economical providers incur for the provision of routine services. Routine services means the regular room, dietary and nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Examples of expenses that allowable costs for routine services must include are:

- 4011.1 All general services including but not limited to administration of oxygen and related medications, handfeeding, incontinency care, tray service, and enemata.
- 4011.2 Items furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins and bed pans.
- 4011.3 Items stocked at nursing stations or on the floor in gross supply and distributed or used individually in small quantities; such as alcohol,

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applicators cotton balls, bandaids, antacids, aspirin (and other non-legend drugs ordinarily kept on hand), suppositories, and tongue depressors.

4011.4 Items which are used by individual patients but which are reusable and expected to be available, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

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4011.5 Laundry services including personal clothing for MaineCare members.

4020 Bad Debts, Charity, and Courtesy Allowance.

4021 Principle. Bad debts, charity, and courtesy allowances are deductions from revenue and are not to be included in allowable cost.

4030 Cost of Educational Activities

4031 Principle. An appropriate part of the net cost of education activities is an allowable cost.

4032 Definitions

4032.1 Educational Activities. Educational activities mean formally organized or planned workshops, seminars, or programs of study usually engaged in by staff members of a facility in order to enhance the quality of resident care within the facility. These continuing education activities are distinguished from and do not include orientation, basic education programs, on-the-job training, in-service education and similar work learning programs.

4032.2 Net Cost. The net cost means the cost of educational activities less any reimbursement from grants, tuition and specific donations. These costs may include; transportation (mileage)r registration fees, salary of the staff member if replaced, and meals and lodging as appropriate. Out-of-State programs will be reimbursed for registration fee only.

4032.3 Appropriate Part. Appropriate part means the net cost of the activity apportioned in accordance with the methods set forth in these principles. Expense for educational activities may be evaluated by the DHS and BDS as to appropriateness, quality and cost and may or may not be included as an allowable cost based on the findings.

4033 Orientation, on the job Training, In-Service Education & Similar Work Learning. Orientation, on-the-job training, in-service education and similar work learning programs are not within the scope of this principle but, if provided by a staff person, are recognized as normal operating costs for routine services in accordance with principles relating thereto.

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4034 Basic Education. Educational training programs which a staff member must successfully complete in order to qualify for a position or job shall be considered basic education. Costs related to this education is not within the scope of reimbursement.

4040 Research Costs.

Principle. Costs incurred for research purposes, over and above usual patient care, are not includable as allowable costs.

4050 Grants, Gifts, and Income from Endowments.

4051 Principle. Unrestricted grants, gifts, and income from endowments should not be deducted from operating costs in computing reimbursable costs. However, unrestricted Federal or State grants or gifts received by a facility will be used to reduce the operating costs of that facility. Grants, gifts, or endowment income designated by a donor for paying specific operating costs should be deducted from the particular operating costs or group of costs.

4051.1 BDS funds designated for cash flow assistance, start-up costs, development costs, services/materials not reimbursable through other funding sources or related purposes that must be paid back out of operating funds shall not, for the purposes of determining MaineCare reimbursement, be deducted from operating costs or group of costs.

4052 Definitions.

4052.1 Unrestricted grants, gifts, income from endowment. Unrestricted grants, gifts, and income from endowments are funds, cash or otherwise, given to a provider without restriction by the donor as to their use.

4052.2 Designated or restricted grants, gifts, and income from endowments. Designated or restricted grants, gifts, and income from endowments are funds, cash or otherwise, which must be used only for the specific purpose designated by the donor. This does not refer to grants, gifts, or income from endowments which have been restricted for a specific purpose by the provider.

4060 Donation of Produce or Other Supplies. Donations of produce or supplies are restricted gifts. The provider may not impute a cost for the value of such donations and include the imputed cost in allowable costs. If an imputed cost for the value of the donation has been included in the provider's costs, the amount included is deleted in determining allowable costs.

4070 Donation of Use of Space. A provider may receive a donation of the use of space owned by another organization. In such case, the provider may not impute a cost for the value of the use for the space and include the imputed cost in allowable costs. If an imputed cost for the value of the donation has been included in the provider's cost, the amount included is deleted in determining allowable costs.

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4080 Value of Services of Nonpaid Workers.

4081 Principle. The value of services in positions customarily held by full-time employees performed on a regular, scheduled basis by individuals as nonpaid members of organizations and a provider for the performance of such services without direct remuneration from the provider to such individuals is an allowable cost subject to the limitation that such services are necessary. The amounts allowed are not to exceed those paid others for similar work. Such amounts must be identifiable in the records of the institutions as a legal obligation for operating expenses.

4082 Limitations; services of non-paid workers. The services must be performed on a regular, scheduled basis in positions customarily held by full-time employees and necessary to enable the provider to carry out the functions of normal patient care and operation of the institution. The value of the services of a type for which providers generally do not remunerate. individuals performing such services is not allowable as a reimbursable cost under the program. For example, donated services of individuals in distributing books and magazines to patients, or in serving in a provider canteen or cafeteria or in a provider gift shop, would not be reimbursable.

4090 Purchase Discounts and Allowances, and Refunds of Expenses.

4091 Principle. Discounts and allowances received on purchases of goods or services are reductions of the costs to which they relate. Similarly, refunds of previous expense payments are reductions of the related expense.

4092 Definitions

4092.1 Discounts. Discounts, in general, are reductions granted for the settlement of debts.

4092.2 Allowances. Allowances are deductions granted for damages, delay, shortage, imperfections, or other causes, excluding discounts and returns.

4092.3 Refunds. Refunds are amounts paid back or a credit allowed on account of an over-collection.

4093 Reduction of Costs.

All discounts, allowances, and refunds of expenses are reductions in the cost of goods or services purchased and are not income. When they are received in the same accounting period in which the purchases were made or expenses were incurred, they will reduce the purchases or expenses of that period. However, when they are received in a later accounting period, they will reduce the comparable purchases or expenses in the period in which they are received.

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4094 Application.

4094.1 Purchase discounts have been classified as cash, trade, or quantity discounts. Cash discounts are reductions granted for the settlement of debts before they are due. Trade discounts are reductions from list prices granted to a class of customers before consideration of credit terms. Quantity discounts are reductions from list prices granted because of the size of individual or aggregate purchase transactions. Whatever the classification of purchase discounts, like treatment in reducing allowable costs is required. In the past, purchase discounts were considered as financial management income. However, modern accounting theory holds that income is not derived from a purchase, but rather for a sale or an exchange, and the purchase discounts are reductions in the cost of whatever was purchased. The true cost of the goods or services is the net amount actually paid for them. Treating purchase discounts as income would result in an overstatement of costs to the extent of the discount.

4094.2 All discounts, allowances, and rebates received from the purchases of goods or services and refunds of previous expense payments are clearly reductions in costs and must be reflected in the determination of allowable costs. This treatment is equitable and is in accord with that generally followed by other governmental programs and third-party organizations paying on the basis of costs.

4100 Advertising expenses.

4101 Principle. The reasonable and necessary expense of newspaper or other public media advertisements for the purpose of securing necessary employees is an allowable cost. No other advertising expenses are allowed.

4110 Limit on Allowable Administration and Management Expenses

4111 *(Removed, effective March 1, 1987, filing 87-77)*

4112 Definitions

4112.1 Dividends and Bonuses. Year end bonuses, dividends, or accruals for the express purpose of giving additional funds to the administrator, Owner, or other employees will not be recognized as allowable costs by the Department.

4112.2 Management fees. Management fees charged by a parent company are not allowable costs. However, central office bookkeeping costs may be allocated to each facility on the basis of licensed beds limited to the reasonable cost of bookkeeping services if they had been performed by the individual facility.

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4112.3 Salaries paid to corporate officers and directors are not allowable costs unless they are paid for direct services provided to the facility as required by licensing regulations such as those provided by the Chief Executive Officer, the administrator or other staff member.

4112.4 Reasonable, Ordinary and Necessary Expenses Only. Only those administrative and management expenses which are reasonable, ordinary and necessary, as defined under Principle 1000, are allowable.

4112.5 Ceiling The administration and policy-planning ceiling shall be determined from the following table:

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1 to 20 beds \$22,090

21 to 99 beds (\$22,909) plus (\$491) for each licensed bed in excess of 20.

Over 100 beds (\$61,534) plus (\$825) for each licensed bed in excess of 100.

In the case of an individual designated as administrator in more than one (1) facility, the Department shall combine the number of beds in these facilities and apply one hundred and twenty percent (120%) of the above schedule. The total ceiling will be prorated to the providers based on the ratio of the facility's number of beds to the combined number of beds for all facilities under the direction of the administrator.

4112.6 Administrative Functions. The administration function includes those duties which are necessary to the general supervision and direction of the current operations of the facility, including, but not limited to, the following:

4112.61 Hiring and Firing of personnel

4112.62 Administrative supervision of the nursing, dietary, and other personnel.

4112.63 Supervising the maintenance of member records and other personnel, payroll, bookkeeping, etc. records of business.

4112.64 Supervising the maintenance and repairs of the facility.

4112.65 Procuring necessary supplies and equipment.

Administrators, assistant administrators, business managers, controllers, office managers personnel directors, and purchasing agents, typify those who are included in the administration function

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category. Bookkeepers, secretaries, clerks, telephone operators, etc., are included in this category.

This ceiling is not to include Directors of Nursing, Dietary Supervisor, or other department heads, whose prime duties are not of an administrative nature, that may be responsible for hiring or purchasing for their Department.

4112.7 Policy-Planning Function. The policy-planning function includes the policy-making, planning and decision-making activities necessary for the general and long-term management of the affairs of the facility, including, but not limited to the following:

4112.71 The financial management of the facility.

4112.72 The establishment of personnel policies.

4112.73 The planning of patient admission policies.

4112.74 The planning of expansion and financing thereof.

4112.8 Compensation. Compensation means total benefit provided for the administration and policy-planning services rendered to the provider. It includes:

4112.81 Fees, salaries, wages, payroll taxes, fringe benefits, contributions to deferred compensation plan, and other increments paid to or for the benefit of, those providing the administration and policy-planning services.

4112.82 The cost of services provided by the provider to, or for the benefit of, those providing the administration and policy-planning services, including, but not limited to food, lodging, and the use of the provider's vehicles.

4112.9 Owners. Owners include any individual or organization with 10% equity interest in the provider's operation and any members of such individual's family or his or her spouse's family. owners also include all partners and all stockholders in the provider's operation and all partners and stock holders or organizations which have an equity interest in the provider's operation.

4120 Administrator in Training. The reasonable salary of an administrator in training will be accepted as an allowable cost for an ICF-MR nursing facility for a period of one year provided there is a set policy, in writing, stating the training program to be followed, position to be filled and this individual obtains an administrator's license, and serve as an administrator of a facility in the State of Maine. Prior approval in writing, from the Department, must be issued in advance of the date of any salary paid to an administrator in training. A request for prior approval must be received by the Department at least two

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(2) weeks prior to the desired effective date of the approval. Failure to become an administrator within one year following completion of the examination to become a licensed administrator will result in the Department of Human Services recovering 100% of the amount allowed of the administrator in training. If the administrator in training discontinues the training program for any reason or fails to take the required examination to become a licensed administrator, 100% of the amount allowed to the ICF-MR nursing facility will be recovered.

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4130 Cost to Related Organizations.

4131 Principle. Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable costs of the provider at the cost to the related organization. However, such costs must not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

4132 Definitions

4132.1 Related to Provider. Related to the provider means that the provider to a significant extent is associated or affiliated with or has control of or is controlled by the organization furnishing the services, facilities, and supplies.

4132.2 Common Ownership. Common Ownership exists when an individual possesses significant ownership or equity in the provider and the institution or organization serving the provider.

4132.3 Control. Control exists where an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

4140 Motor Vehicle Allowance. Cost of operation of a motor vehicle necessary to meet the facility needs is an allowable cost less the portion of usage of that vehicle that is considered personal.

4150 Insurance. Reasonable and necessary costs of insurance involved in operating a facility are considered allowable costs. Premiums paid on property not used for patient care are not allowed. Hospital insurance premiums on employees are an allowable cost if reasonable. Retirement plans and life insurance plans for employees are an allowable cost. Life insurance premiums related to insurance on the lives of officers and key employees where the provider is a direct or indirect beneficiary are not allowable costs. A provider is a direct beneficiary where, upon the death of the insured officer or key employee the insurance proceeds are payable directly to the provider. An example of a provider as an indirect beneficiary is the case where insurance on the lives of officers is required as part of a mortgage loan agreement entered into for a building program, and, upon the death of an insured officer the proceeds are payable to the lending institution as a credit against the loan balance. In this case, the provider is not a direct beneficiary because it does not receive the proceeds directly, but is, nevertheless, an indirect beneficiary since its liability on the loan is reduced.

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4160 Legal Fees. Legal fees to be allowable costs must be directly related to resident care. Fees paid to the attorneys for representation against the Department of Human Services are not allowable costs. Retainers paid to lawyers are not allowable costs. Legal fees paid for organizational expenses, or mortgage fees in the event of new construction, are to be amortized over a 60 month period.

4165 Costs Related to Union Activities. Legal fees or other costs incurred for activities directly related to influencing employees with respect to unionization or related to attempts to coerce employees or otherwise interfering with or restraining the exercise of employees rights under the NLRA (National Labor Relations Act) are not allowable costs for program purposes. Such costs are unallowable whether such activities are performed directly by the provider or through an independent contractor, consultant or outside attorney.

Costs incurred for activities directly related to expressing management's opinions for purposes of influencing employees not to organize and to form a union are not allowable costs.

Consultants and/or attorneys fees associated with collective bargaining activities in violation of the NLRA are not allowable costs.

After an election is held and the employees have elected to be represented by a union, then all contract negotiations and any procedures which form enforcement of contract terms which are necessary and reasonable are allowable costs. If the contract period is for a period of several years, the costs of collective bargaining will be amortized over the life of the contract.

Within sixty (60) days after the close of their operating year all health care facilities shall submit a written report noting all costs involved in any form of union activity to the Bureau of Medical Services, Department of Human Services, 11 State House Station, Augusta, Maine 04333-0011.

4180 Costs Attributable to Asset Sales. Costs attributable to the negotiation of settlement or a sale or purchase of any capital asset (by acquisition or merger) are not allowable costs. Included among such unallowable costs are: legal fees, accounting and administrative costs, appraisal fees, banking and broker fees, travel costs and the cost of feasibility studies.

5000 SPECIAL SERVICE ALLOWANCE

5010 Principle. A special service is to be distinguished from routine a service. Special services are of two types:

5010.1 One type of special service is that of an individual nature required in the case of a specific member. This type of service is limited to professional services such as physical therapy, occupational therapy, and speech and hearing services. Special services of this nature must be billed monthly to the Department as separate items required for the care of individual members.

Eff 8/1/03

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5010.2 Other special services needed as a result of the resident's individual program plan are reimbursable as part of the allowable per diem cost only if prior approved by the Department of Human Services in consultation with BDS.

| Eff 8/1/03

5010.3 Another type of special service is that rendered for the benefit of a group of residents in the facility rather than an individual recipient. This type of consultative service may be considered as part of the allowable per diem cost in accordance with the following description:

| Eff 8/1/03

5011 Qualified Mental Retardation Professional. A qualified mental retardation professional is required for all ICFs-MR. If a Q.M.R.P. also performs functions which are related to the administration or management of the facility, the facility shall submit documentation to the Department of that portion of the Q.M.R.P.'S time allocated to administration and policy planning functions and that portion of time allocated to Q.M.R.P. functions. The costs associated with administration and policy planning functions shall be included under the administrative and management ceiling.

5012 Pharmacist Consultants. Pharmacist consultants will be paid directly by the facility who will then be reimbursed through the per diem rate. In addition to the pharmacist consultant fees included in the base year rate, up to \$2.50 per month per resident shall be allowed for drug regimen review.

5013 Dietary Consultants professionally qualified, may be employed by the facility or by the Department.

If employed by the Department, consultation services will be provided without any charge to the facilities.

5014 Physician Participation in the Professional Policy Committee ICF's

Physicians participating in the semi-annual review meetings of the Professional Policy Committee of an Intermediate Care Facility are an allowable cost up to a maximum of forty-four dollars (\$44) per hour. The allowable cost shall be pro-rated on the number of Title XIX residents.

5015 Social Worker Consultant.

| Eff 8/1/03

Social Worker Consultants may be provided by the Department, BDS, or by the facility.

7000 PROSPECTIVE METHOD OF PAYMENT; INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

7010 Prospective Per Diem Rate

7011 Principle

| Eff 8/1/03

Intermediate care facilities for the mentally retarded will be reimbursed for services provided to member under MaineCare based on a rate which the department establishes on a prospective basis and determines is reasonable and Facilities which incur variable costs during their fiscal year which exceed the amount paid through the prospective rate will be reimbursed no more than the amount allowed by the prospective rate.

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7012 Definitions

7012.1 Fixed Costs include:

- (a) depreciation on buildings, fixed and movable equipment and motor vehicles,
- (b) depreciation on land improvements and amortization of leasehold improvements,
- (c) real estate taxes,
- (d) real estate insurance, including liability and fire insurances,
- (e) interest on long term debt,
- (f) return on equity capital for proprietary providers,
- (g) rental expenses,
- (h) amortization of finance costs for new construction and/or renovations,
- (i) amortization of start-up costs,
- (j) motor vehicle insurance,
- (k) medical supplies which are supplied as part of the regular rate of reimbursement. These supplies are listed in the MaineCare Benefits Manual at Chapter II, Section 50, Appendix 3. Excluded are costs which are an integral part of another cost center. Refer to Principle 7072.2 for calculation.
- (l) facility's liability insurance, including malpractice cost. Refer to Principle 7072.2 for the calculation.
- (m) mandated direct care staff training program costs as required by state and federal regulations.
- (n) mandated accreditation costs.
- (o) ICF-MR Health Care Provider Tax. Effective 10/1/02, ICFs-MR subject to the Health Care Provider Tax defined in state law 36 M.R.S.A., Chapter 373, will have the tax treated as an allowable fixed cost. Currently, the tax imposed is equal to 6% of its annual gross patient services revenue for the fiscal year.

7012.2 Variable Costs include all allowable costs which are not defined as fixed costs, staff wages, salaries or authorized staff benefits and which are incurred in the efficient and economical operation of the facility.

7012.21 Wages: Reasonable costs incurred for personnel wages will be reimbursed at actual cost.

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A. Direct Care Staff:

1. Direct Care Staff employed by the facility: The reasonable allowable cost of wages for direct care personnel employed on site at the facility shall be determined based on the lesser of actual hours worked or hours approved by the Division of Licensing and Certification of the Department of Human Services.

In addition, direct care staff hours related to mandatory programs, as specified in Principle 7912.1(m), above, will be considered allowable and will be reimbursed at the actual hourly wage for the relevant category of direct care staff.

2. Nursing Personnel employed by a third party and furnished on site at the facility on a contractual basis: The allowable cost of personnel employed by a third party and furnished to the facility on a contractual basis shall be limited by the facility's licensed bed capacity as specified in Table 1 on page 45B & C. The columns in Table 1 specify, respectively: column 1, the bed capacity of the facility; column 2, the number of hours of contract labor that will be reimbursed at 100% of cost; and column 3, the number of additional hours of contract labor that will be reimbursed at 90% of cost (10% of column 2). Any additional hours of contract labor purchased by the facility, beyond those specified in columns 2 and 3, will be paid at the actual average hourly rate, to include fringe benefits but not to include wages paid to a nursing pool, which the facility pays its own staff in the relevant category of direct care staff (RN, LPN, CNA). Facilities of 19 beds or less are allowed 900 hours of contractual labor at 100% of cost. For larger facilities, the hours of contract labor reimbursed at 100% of cost are calculated cumulatively as follows:

20-30 Licensed Beds x 365 Days x 3.08 Hours
Nursing Care x 4%

31-60 Licensed Beds x 365 Days x 3.08 Hours
Nursing Care x 3%

61 - over Licensed Beds x 365 Days x 3.08 Hours
Nursing Care x 2%

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ALLOWED HOURS FOR CONTRACT LABOR

Beds	Hours (100%)	Hours (90%)	Beds	Hours (100%)	Hours (90%)
3	900	90	51	2,057	206
4	900	90	52	2,091	209
5	900	90	53	2,125	212
6	900	90	54	2,158	216
7	900	90	55	2,192	219
8	900	90	56	2,226	223
9	900	90	57	2,260	226
10	900	90	58	2,293	229
11	900	90	59	2,327	233
12	900	90	60	2,361	236
13	900	90	61	2,383	238
14	900	90	62	2,406	241
15	900	90	63	2,428	243
16	900	90	64	2,451	245
17	900	90	65	2,473	247
18	900	90	66	2,496	250
19	900	90	67	2,518	252
20	900	90	68	2,541	254
21	944	94	69	2,563	256
22	989	99	70	2,586	259
23	1,034	103	71	2,608	261
24	1,079	108	72	2,631	263
25	1,124	112	73	2,653	265
26	1,169	117	74	2,676	268
27	1,214	121	75	2,698	270
28	1,259	126	76	2,721	272
29	1,304	130	77	2,743	274
30	1,349	135	78	2,766	277
31	1,383	138	79	2,788	279
32	1,416	142	80	2,811	281
33	1,450	145	81	2,833	283
34	1,484	148	82	2,855	286
35	1,518	152	83	2,878	288
36	1,551	155	84	2,900	290
37	1,585	159	85	2,923	292
38	1,619	162	86	2,945	295
39	1,653	165	87	2,968	297
40	1,686	169	89	2,990	299
41	1,720	172	89	3,013	301
42	1,754	175	90	3,035	304
43	1,787	179	91	3,058	306
44	1,821	182	92	3,080	308
45	1,855	185	93	3,103	310
46	1,889	189	94	3,125	313
47	1,922	192	95	3,148	315
48	1,956	196	96	3,170	317
49	1,990	199	97	3,193	319
50	2,024	202	98	3,215	322

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ALLOWED HOURS FOR CONTRACT LABOR (cont.)

Beds	Hours (100%)	Hours (90%)	Beds	Hours (100%)	Hours (90%)
99	3,238	324	150	4,384	438
100	3,260	326	151	4,407	441
101	3,283	328	152	4,429	443
102	3,305	331	153	4,452	445
103	3,328	333	154	4,474	447
104	3,350	335	155	4,497	450
105	3,373	337	156	4,519	452
106	3,395	340	157	4,452	454
107	3,418	342	158	4,564	456
108	3,440	344	159	4,587	459
109	3,463	346	160	4,609	461
110	3,485	349	161	4,632	463
111	3,508	351	162	4,654	465
112	3,530	353	163	4,677	468
113	3,552	355	164	4,699	470
114	3,575	357	165	4,722	472
115	3,597	360	166	4,744	474
116	3,620	362	167	4,767	477
117	3,642	364	168	4,789	479
118	3,665	366	169	4,812	481
119	3,687	369	170	4,834	483
120	3,710	371	171	4,857	486
121	3,732	373	172	4,879	488
122	3,755	375	173	4,902	490
123	3,777	378	174	4,924	492
124	3,800	380	175	4,946	495
125	3,822	382	176	4,969	497
126	3,845	384	177	4,991	499
127	3,867	387	178	5,014	501
128	3,890	389	179	5,036	504
129	3,912	391	180	5,059	506
130	3,935	393	181	5,081	508
131	3,957	396	182	5,104	510
132	3,980	398	183	5,126	513
133	4,002	400	184	5,149	515
134	4,025	402	185	5,171	517
135	4,047	405	186	5,194	519
136	4,070	407	187	5,216	522
137	4,092	409	188	5,239	524
138	4,115	411	189	5,261	526
139	4,137	414	190	5,284	528
140	4,160	416	191	5,306	531
141	4,182	418	192	5,329	533
142	4,205	420	193	5,351	535
143	4,227	423	194	5,374	537
144	4,249	425	195	5,396	540
145	4,272	427	196	5,419	542
146	4,294	429	197	5,441	544
147	4,317	432	198	5,464	546
148	4,339	434	199	5,486	549
149	4,362	436	200	5,509	551

SECTION 50 INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED

The 3.08 nursing care hours per patient day used in developing the Table "Allowed Hours For Contract Labor," is based on average hours of nursing care as reported on the cost reports submitted for the period from November 1987 through October 1988.

- B. Non-Direct Care Staff: The reasonable allowable cost of wages for non-direct care personnel employed on site at the facility shall be determined based on the actual hours worked during the facility's fiscal year ending in 1988 except for hours otherwise limited by the Regulations Governing the Licensing and Functioning of Intermediate Care Facilities for the Mentally Retarded.

7012.22 Fringe Benefits: The Department will reimburse the facility for its actual contribution to the reasonable and customary cost of the following designated types of fringe benefits if they are provided to the facility's personnel:

A. Designated Benefits:

1. health insurance
2. dental insurance
3. term life insurance
4. worker's compensation
5. holiday leave
6. sick leave
7. unemployment compensation
8. Federal Insurance Contribution Act (FICA)
9. vacation

- B. Pay in Lieu of Benefits (PIB): PIB is an allowable cost for those benefits unrelated to wage driven benefits such as FICA and Worker's Compensation. In order to receive pay in lieu of health insurance the staff member must demonstrate to the facility that he/she is covered for comprehensive medical care under an alternative program or policy. This benefit shall be reimbursable for personnel who are employed at the facility at least 24 hours per week. PIB shall be reported as a fringe benefit on the appropriate cost reporting form.

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For facilities who have hired per diem nursing staff prior to April 1, 1989, those per diem nursing staff members will be exempt from the 24 hour per week requirement as stated in this Principle. Documentation must be made available at the time of Audit.

C. Costs incurred for fringe benefits other than those designated in A or B above, if they are determined to be reasonable, may be reimbursed only as a part of the variable cost component.

7012.3 "Other" costs will be reimbursed in the same manner as fixed costs.

7012.4 Days of Care means total number of actual days of care provided whether or not payment is received and the number of any other days for which payment is made. (Note: Bed held days and discharge days are included only if payment is received for these days.)

7012.5 Base Year means the fiscal year immediately prior to a facility's first year on the prospective reimbursement system.

7012.6 Per Diem Rate means total allowable costs divided by days of care. The prospective per diem rate, as described in the following section, multiplied by days of care for MaineCare members, will determine reimbursement.

| Eff 8/1/03

7020 Implementation

Changes made as a result of the amendments to the Principles of Reimbursement of November 8, 1989 are intended to apply to reimbursement from April 1, 1989, onward. A facility may request an adjustment to its interim prospective rate, not to exceed actual costs of employee wages, salaries and benefits for a current 12 month period. Facilities may refer to P.L. 869, An Act Concerning Intermediate Care Facilities for the Mentally Retarded, as well as the recommendations of the Advisory Committee on Staff Retention for guideline for establishing the appropriate wage scale for Residential Assistants, Developmental Training Assistants, Developmental Trainer, Developmental Training Coordinator and the Q.M.R.P. positions. In order to receive an adjustment to the interim prospective rate a facility must submit documentation of actual cost adjusting for the changes described in these rules. Upon final audit of a facility's cost report that covers the period beginning April 1, 1989, the Department will determine actual allowable costs and will determine the final settlement based on the difference between the actual allowable costs, pursuant to Section 7030 and the amount paid under the interim rates.

A facility may request an interim adjustment as described above only once, unless it can demonstrate extreme hardship in the recruitment and retention of staff. Such an adjustment based on extreme hardship will be granted no more often than once every six months. Facilities must submit a cost report to the Division of Audit when applying for an interim adjustment. Facilities must submit a cost report to the Division of Health Care Audit when requesting such an adjustment.

SECTION 50 INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED

7030 Establishment of Prospective Per Diem Rate

7031 Principle. For payment periods beginning on or after April 1, 1989, the Department will establish an interim and prospective per diem rate to be paid to each facility throughout its fiscal year. The prospective rate shall consist of three components: the fixed cost component as defined in Principle 7012.1; the variable cost component as defined in Principle 7012.2; and the reasonable cost of employee wages, salaries and benefits as defined in Principle 7012.3 and 7012.4.

The fixed cost component shall be determined based on actual fixed costs incurred by the facility. The variable cost component, less wages, salaries and benefits, shall be determined in the following manner. Each facility's base year shall be its fiscal year ending in 1988. For any facility sold after December 31, 1988 the variable rate will be determined from the base year of the seller. Costs approved through the certificate of need review shall determine the base year for new facilities entering the program.

Total operating costs for the base year (fiscal year ending in 1988) shall be adjusted as follows: The total dollar amount of the audited operating costs will be reduced by the fixed cost component, medical supplies, workers compensation insurance premiums, employee wages, salaries, fringe benefits, professional liability insurance and mandated direct care staff training except those that are part of the central office overhead costs. This amount will be divided by total patient days in the base year.

For subsequent years, the variable cost component shall be determined by adjusting the reasonable, necessary and variable costs incurred by the facility during the previous year by the DRI to reflect the expected increase in the costs of goods and services the facility must purchase during the prospective year.

Central Office Bookkeeping costs as spelled out in Principle 4112.2 are to be considered as part of the variable costs component and are not subject to rebasing. The base year costs of this procedure inflated by the DRI, will become an allowable cost built into the variable cost component. For sale of existing facilities or for existing operators who wish to establish a central office bookkeeping system, their costs will become part of the variable component with the cost being the lesser of the budgeted amount or the present cost of bookkeeping services that are allowable. When a central office bookkeeping system is set up, salary costs will be removed from retrospective reimbursement and will be transferred to the variable cost component.

The Wage, Salary and Benefit component shall be determined based on actual costs of wages, salaries and benefits for the previous year and shall be adjusted retrospectively at the time of final settlement.

The Department will assign an interim prospective rate at least fifteen days prior to the commencement of a facility's fiscal year or immediately following the availability of the inflationary information which will take effect for all services rendered on or after the first day of that fiscal year.

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Upon completion of a final audit of a facility's cost report, the Department will assign the facility a final prospective rate.

Example: A facility with a base year of December 31, 1988

20,000 patient days	
Total Operating Costs	\$860,000
Less: Fixed Costs	(173,000)
Medical Supplies	(29,000)
Workers Comp Ins	(18,000)
Salaries	(400,000)
Fringe Benefits	(72,000)

Base Year Variable Costs 168,000

$\$168,000 - 20,000 = \8.40 per patient day

\$ 8.40 variable cost per patient day

7040 Inflation Adjustment

The "skilled nursing facility" market basket forecasts published quarterly by Data Resources, Inc. of Washington, D.C. will be used to determine the expected increases in the cost of the goods and services which must be purchased by Intermediate Care Facilities for the Mentally Retarded. In computing the variable cost component of each facility's prospective rate, the base rate of each facility whose fiscal year ends during a given calendar quarter will be adjusted to reflect the forecasted change in the market basket of facilities whose fiscal year ends in the same quarter of the following year. The most recent forecast published by DRI prior to the beginning of a quarter will be used to determine the inflation projection for facilities with a fiscal year ending in that quarter.

Example

Facility X's fiscal year will end on July 31, 1982. Facility Y's fiscal year will end on August 31, 1982. Facility Z's fiscal year will end on September 30, 1982. If Data Resources, Inc. forecasts an increase of 8.3 percent in the cost of goods and services purchased by facilities whose fiscal year ends during the third quarter of 1983, that forecast will be used in the computation of the inflation adjustment included in the variable cost component of the prospective rates to be paid to Facility X, Facility Y and Facility Z.

7050 First Year Prospective Rate

7051 Interim Prospective Rate

The interim prospective rate for a facility's first fiscal year in the prospective system will consist of two components; a fixed cost component and a variable cost component. The fixed cost component will be determined from the allowable fixed costs included in the facility's most recent audited cost report.

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The fixed cost component will be subtracted from the rate currently approved by the Department to yield the base amount of the variable cost component of the prospective rate. The base variable cost component will be adjusted by an inflation factor to reflect the expected increase in the cost of goods and services the facility must purchase during the prospective year.

The fixed cost component, the base amount of the variable cost component and the inflation adjustment will be added to produce the interim prospective rate.

Example

Facility A, a fully occupied, eighty bed facility, has a fiscal year beginning July 1, 1982. Fifteen days prior to its fiscal year, the department establishes an interim prospective rate.

During the year ending June 30f 1981, Facility A incurred allowable expenses of \$1,073,100 and had a total of 29,200 patient days. Its total per diem cost of \$36.75 was comprised of \$8.20 of fixed expenses and \$28.55 of variable expenses. The fixed cost component of the interim prospective rate is \$8.20.

The rate currently approved for Facility A is \$40.42. The fixed cost component of \$8.20 is subtracted from the approved rate of \$40.42 to yield the base amount of the variable cost component of \$32.22 (\$40.42-\$8.20).

The cost of goods and services facilities must purchase is expected to increase by eight percent* during the twelve month period beginning July 1. 1982. The base amount of the variable cost component will be adjusted by eight percent.

Fixed Cost Component (as of 6-30-81)	\$ 8.20
Variable Cost Component	32.22
Inflation Adjustment (\$32.22 x .08)	<u>2.58</u>
	\$43.00

The interim prospective rate of \$43.00 will take effect for all services rendered on or after July 1, 1982.

*Eight percent is used for example purposes only. See Section 7050 for means of determining inflation projection.

7052 Final Prospective Rate

Upon final audit of a facility's base year cost report, the Department will establish a final prospective rate.

SECTION 50 INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED

The final prospective rate will consist of two components; a fixed cost component and a variable cost component. The fixed cost component will be the actual allowable fixed costs incurred by the facility based on the base year audited cost report. The variable cost component will be the actual allowable variable costs incurred by the facility based on the base year audited cost report adjusted by the expected increase in the costs of goods and services which the facility must purchase in the prospective year.

Example

Upon audit of Facility A's cost report for fiscal year ending 6-30-82, the Department determines that the actual allowable fixed cost per day was \$8.00, and the variable cost per day was \$32.00. The final prospective rate would then be \$42.56.

Fixed Cost Component (as of 6-30-82)	\$ 8.00
Variable Cost Component (as of 6-30-82)	32.00
Inflation Adjustment (\$32.00 X .08)	2.56

7053 *(not in use)*

7054 Payment Adjustment for First Year Interim Versus Final Prospective Rate

If a facility's final prospective rate is greater than its interim prospective rate, the Department will estimate the number of days of care it has provided to MaineCare members during the current fiscal year, multiply that number by the difference between the final prospective rate and the interim prospective rate and forward that amount to the facility within thirty days.

If a facility's final prospective rate is less than its interim prospective rate, the Department will estimate the number of days of care it has provided to MaineCare members during the fiscal year, multiply that number by the difference between the final prospective rate and the interim prospective rate and request that the facility pay the resulting sum. The facility may elect to either pay that sum within ninety days or request the Department to reduce its payments during the balance of its fiscal year by that amount.

7055 First Year Base Limitation

In order to prevent those facilities whose fiscal years begin after July 1, 1982 from incurring additional expenses in order to inflate the base used in the determination of their final prospective rate,, facilities with fiscal years beginning after July 1, 1982 will be subject to a first year base limitation. This limitation will be used to determine base year allowable variable costs and the variable cost per day which will be used as the base for the first year final prospective rate.

SECTION 50 INTERMEDIATE CARE FACILITIES for the MENTALLY RETARDED

The allowable rate of increase in base year variable costs for facilities with fiscal years beginning after July 1, 1982 will be limited to the forecasted rate of inflation as of the commencement of a facility's base year. The forecasted rate of inflation is based on the "skilled nursing facility" market basket published quarterly by Data Resources Inc. (DRI) of Washington, D.C.* The following schedule shall be used to determine the base year limitation*:

DRI Forecast as of:	For Fiscal Years Ending:	% Limit*
July 1981	3rd Quarter 1982	8.9%
October 1981	4th Quarter 1982	8.5%
January 1982	1st Quarter 1983	7.6%
January 1982		7.9%

Any reduction in payments resulting from the limitation will be imposed only in proportion to that part of a facility's fiscal year which occurs after July 1, 1982.

*The forecasted rate of inflation is the "percentage change in the fiscal year ending this quarter over the previous quarter (%MOVAVG)" (See DRI publications).

Example

Facility C is a fully occupied, eighty bed facility. During the fiscal year ending December 31, 1981, it incurred allowable variable expenses of \$934,400 or \$32.00 per day.

During fiscal year ending December 31, 1982, its variable costs increased by 10% to \$1,027,840 or \$35.20 per day. The 1.0% increase in variable costs exceeds the 8.5% rate of inflation which was forecast by DRI as of October 1, 1981 for facilities with fiscal year ending in the 4th quarter of 1982. For that reason, Facility C's allowable variable expenses will be limited to an 8.5% increase in proportion to that part of the facility's fiscal year which begins after July 1, 1982.

This is calculated as follows:

- | | | |
|----|---|---|
| 1) | Multiply the allowable variable costs incurred by Facility C during fiscal year ending December 31, 1981 by 1.085 (the forecasted rate of inflation). | \$ 934,400
<u>x 1.085</u>
\$1,013,824 |
| 2) | Subtract the product of (1) above from the actual variable costs incurred during fiscal year ending December 31, 1982. | \$1,027,840
<u>-1,013,824</u>
\$ 14,016 |

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3)	Multiply the difference calculated in (2) above by that percentage of Facility C's fiscal year which occurred after July 1, 1982.	\$ 14,016 <u>x .50</u> \$ 7,008
4)	Subtract (3) above from the variable costs incurred during the year ending December 31, 1982	\$1,027,840 <u>- 7,008</u> \$1,020,832

The allowable variable costs for Facility C for fiscal year ending December 31, 1982 is \$1,020,832. The variable cost per day which will be used as the base for the first year final prospective rate is \$34.96 (\$1,020,832 ÷ 29,200 days).

7057 Occupancy Adjustment

An adjustment for an annual occupancy of 80% or less will only apply to that portion of a facility's base year prior to July 1, 1982. The following example illustrates the determination of the occupancy adjustment for that portion of a facility's base year prior to July 1, 1982.

Example

Facility Q is an 20 bed facility with a fiscal year ending September 30f 1982. During the year ending September 30, 1982, it incurred allowable expenses of \$273,750, had 5,475 patient days and an occupancy of 75%. The amount of the facility's base year allowable expenses and base year per diem is calculated as follows:

(1)	Actual allowable base year expenses* (after computation of base year limit and prior to application of 80% occupancy rule)	\$273,750
(2)	Allowable base year expenses* (after application of 80% occupancy rule)	<u>\$254,549</u>
(3)	Amount of disallowance (line 1 - line 2)	19,201
(4)	Portion of year after July 1, 1982	<u>.25</u> 4,800
(5)	Base Year Allowable Expenses (254,549 + 4,800)	\$259,349
(6)	Base Year Allowable Per Diem (259,349 ÷ 5,475)	\$ 47.37

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*Allowable expenses include allowable fixed expenses and allowable base year expenses after computation of the base year limit.

7060 Second and Subsequent Years: Interim Prospective Rate

At least fifteen days prior to the commencement of a facility's second fiscal year in the prospective system, the Department will assign it an interim prospective rate which will take effect for services rendered on or after the first day of that fiscal year.

The interim prospective rate in the second and subsequent year is the sum of 1) the fixed cost component of the final prospective rate in the first year and 2) the variable cost component of the first year final prospective rate and 3) an inflation adjustment. The inflation adjustment is the forecasted increase in the cost of goods and services as determined in accordance with section 7040 multiplied by the variable cost component of the first year final prospective rate.

The interim prospective rate in the third and subsequent fiscal years will be determined in the same manner as outlined in the second year.

Example 1

The Department assigns Facility A an interim prospective rate at least 15 days prior to the commencement of its second fiscal year in the prospective system, i.e., July 1, 1983.

The fixed cost component of the final prospective rate in the first year equals	\$ 8.00
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The variable cost component of the first year final prospective rate was \$34.56 (\$32.00+\$2.56)	34.56
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Assume the inflation forecast for fiscal year beginning 7-1-83 is 8.7%. The inflation adjustment is \$3.00 (\$34.56 x .087)	<u>3.00</u>
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The second year interim prospective rate is	\$45.56
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7070 Final Audit of First and Subsequent Prospective Years

7071 Principle

All facilities will be required to submit a cost report at the end of their fiscal year on cost report forms provided by the Department. The Department will conduct a final audit of each facility's cost report which may consist of a full scope examination by Department personnel and will be conducted on an annual basis.

Upon final audit of a facility's cost report for the first and subsequent prospective years, the Department will:

- 1) determine the actual allowable fixed costs incurred by the facility in the prior fiscal year,

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- 2) calculate a final prospective rate and,
- 3) calculate any overpayments or underpayments made by the Department based on the above determinations.

7072 Settlement of Fixed Expenses

7072.1 The Department will reimburse facilities for the actual allowable fixed costs which are incurred during a fiscal year. Upon final audit of a facility's cost report, if the Department's share of the allowable fixed costs actually incurred by the facility is greater than the amount paid by the Department (the fixed cost component of the final prospective rate multiplied by the number of days of care provided to MaineCare members), the difference will be paid to the facility by the Department. If, on the other hand, the Department's appropriate share of the allowable fixed actually incurred by a facility is less than the amount paid by the Department, the difference will be paid to the Department by the facility. (See section 7076 for calculation of over and under payments.)

Eff 8/1/03

Example

Facility A's first year final prospective rate included a fixed cost component of \$8.00. During the year ending June 30, 1983, it actually incurs an allowable fixed cost per day of \$8.05. Ninety percent (90%) of the 29,200 days of care it provided (26,280) were provided to MaineCare members. Thus, the Department owes the facility its share of the difference between the actual costs paid under the prospective rate. This equals \$1,314 $((\$8.05 - \$8.00) \times 26,280)$.

Eff 8/1/03

7072.2 Costs associated with medical supplies, malpractice insurance, mandated direct care staff training and mandated accreditation are treated as fixed costs, effective April 1, 1989. The costs associated with these expenses are eliminated from the facility's variable rate by either inflating the facility's base year cost of the DRI inflationary index to determine the current cost built into the prospective rate or by the present cost, whichever is lower, and subtracting this amount from the facility's current variable rate. For the purpose of determining the facility's variable service cost limitations, malpractice insurance costs are included in the variable cost component of its prospective reimbursement rate.

7075 Second Year and Subsequent Final Prospective Rate

7075.1 Second and Subsequent Year Final Prospective Rate

Upon final audit of a facility's cost report, the Department will calculate a final prospective rate.

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The final prospective rate in the second and subsequent years is the sum of 1) the actual fixed costs per day in the facility's prior fiscal year and 2) the lesser of the actual variable costs per day in the prior fiscal year or the variable cost component of the prior year prospective rate and 3) an inflation adjustment (the operating component of the prior year final prospective rate times the inflation projection).

Example

- | | | |
|----|---|-------------|
| 1) | Facility A's actual fixed cost
per day for the year ending
June 30, 1989 was: | \$ 8.05 |
| 2) | Facility A's actual variable
cost per day for the year
ending June 30, 1983 was: | 34.00 |
| 3) | The inflation adjustment is
the variable cost component of
the first year final prospective
rate times the projection of
inflation ($\$34.56 \times .087 = \3.01) | <u>3.01</u> |
| 4) | Prospective Rate | \$45.06 |

7076 Calculation of Overpayments and Underpayments

Upon determination of final prospective rate in the second year, the Department will calculate the net amount of any overpayments or underpayments made to the facility.

If the Department determines that it has underpaid a facility, it will estimate the amount due and forward the result to the facility within thirty days. If the Department determines that it has overpaid a facility, the Department will so notify the facility. Facilities will pay the total overpayment within sixty (60) days of the notice of overpayment or request the Department to reduce facility payments during the balance of its fiscal year by the amount of the overpayment. Facilities that do not notify the Department of the method of by which they intend to repay the overpayment will, beginning 60 days after their receipt of the notice of overpayment, have their subsequent payments from the Department reduced by the amount of overpayment.

If a facility appeals a determination of overpayment, the facility must repay within sixty (60) days of the notice of overpayment all portions of the determined overpayment except those that are expressly disputed and for which specific dollar values are identified. Repayment of each such specifically disputed portion and identified amount shall be stayed pending resolution of the dispute with respect thereto. The amount of money in dispute must be identified in the manner outlined in Principle 8010.

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The net amount of any over or underpayment made to the facility will be based on 1) the calculation of actual fixed expenses incurred in the prior year, and 2) the estimated difference in amount due or paid based on the interim versus final prospective rate.

Example	Department Owes	Facility Owes
1) Upon final audit of Facility A's fixed costs, the Department owes it \$1,314 (Example 2)		\$1,314
3) The difference between the interim (\$45.56) and final (\$45.48) prospective rates is \$.08. (See Examples 1 and 5). This determination is made six months into the facility's fiscal year. The Department estimates 13,140 days of care have been provided to MaineCare members. The facility owes the Department \$1,051.20 (\$.08 x 13,140).		<u>\$1,051.20</u>
4) The amount which Facility A owes the Department is \$2,365.20.		\$2,365.20

Facility A may either pay that amount to the Department or request that its payment be reduced by that amount during the balance of its fiscal year.

7080 Changes in Staffing

7080.1 Direct Care Personnel

In the event that a facility believes that the need of the individuals it serves have increased or decreased considerably and, consequently, that an increase or decrease in the number of full time equivalent direct care staff it employs is warranted, it may request the Division of Licensure and Certification to conduct an audit of its residents and their needs. The cost associated with any additional personnel approved by the Department will be incorporated into the facility's interim adjustment rate of reimbursement. The facility must notify the Division of Audit when the approved position has been filled.

The facility will be responsible for maintaining appropriate records which the Department can audit to demonstrate the need for changes in staffing (either increases or decreases) based on the needs and changes in needs of its residents.

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If the Department determines that the needs of the residents are not adequately met, it may order the facility to retain the additional personnel needed to do so.

If the Department determines that the number of direct care staff in the facility is greater than the number required to adequately serve the needs of its residents, it may adjust the facility's approved staffing pattern and its prospective rate. Any such adjustment made will not be applied on a retroactive basis; but instead will be applied as of the effective date of the adjustment.

7080.2 Non-Direct Care Staff

In the event a facility believes that the needs of the residents it serves have increased or decreased or the staff of the Department of Human Services recommends an increase or decrease in non-direct care staff, the facility may request Division of Licensing and Certification to authorize such a change. The cost associated with any additional personnel approved by the Department will be incorporated into the facility's interim adjustment rate of reimbursement. The facility must notify the Division of Audit when the approved position has been filled.

The facility will be responsible for maintaining appropriate records which the Department can audit to demonstrate the need for changes in staffing (either increases or decreases) based on the needs and changes in needs of its residents.

If the Department has reason to believe that a facility has a number of full time equivalent non-nursing personnel in its employ which is greater or less than the number needed to adequately serve its residents, the Department will initiate an audit of the facility's residents.

If the Department determines that the needs of the residents are not adequately met, it may order the facility to retain the additional personnel needed to do so.

If the Department determines the number of full time equivalent non-direct care staff in the facility is greater than the number needed to adequately serve the needs of its residents, it may adjust the facility's staffing pattern and its prospective rate. Any such adjustments made will not be applied on a retroactive basis; but instead will be applied as of the effective date of the adjustment.

7090 Administrator in Training

The reasonable salary of an administrator in training is an allowable expense in accordance with Section 4120 of the Principles of Reimbursement. The approved salary of the administrator in training will be considered a one-time pass through and will not be included in the operating expenses used to calculate a subsequent year prospective rate.

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7095 Certified Nurses Aide Training (CNA)

The reasonable cost of Nurses Aide Training programs necessary for providing proper training to qualify individuals as Certified Nurses Aides is an allowable cost when other training programs are not meeting the need for CNA's. These programs must be conducted in accordance with the requirements of the Maine Board of Nursing for educational programs for nurses aides. To be allowable these programs must be conducted within a licensed skilled nursing or intermediate care facility within the State of Maine or under a contract with an educational institute whereby the classroom instruction may be provided in the educational facility but the supervised clinical experience must be within the licensed facility receiving the reimbursement under these principles.

Allowable costs include costs of qualified instructors for classroom instruction and supervision of clinical experience, materials, books, and supplies necessary for providing these programs. If instructors used for these programs are those that are on the facility's present approved staffing pattern then only their replacement, if any, will be considered as a cost of this training program. Tuition on a per student basis will not be allowable unless it can be established that this will result in lower costs than arranging and conducting courses by the facility. The department will reimburse for the number of courses needed to meet the facility's needs, or the basic needs of a group of facilities on a pro-rated basis, which is expected to be no more than three CNA courses per year, unless it is found that this is not enough to meet the facility's needs. However, costs for classes of four or fewer students will be allowable no more than twice a year. Reimbursement shall be allowed up to, but not to exceed, 150 hours of CNA training per person per course.

The cost per student cannot exceed the cost of tuition in a program offered through the Department of Education and Cultural Services that is reasonably accessible. If it is determined that any nurses aide training program offered by a facility has not met or does not presently meet the requirements of the Maine Board of Nursing, the Department will initiate action to recoup all costs allowed in the reimbursement rate for all courses offered after the effective date of these rules.

The costs of CNA training programs approved under this section will be considered part of the fixed cost component and will not be included in the calculation of the subsequent years prospective rate. All income received from these programs must be used to reduce the overall costs of programs. The training programs and costs must be approved by the Department of Human Services, Bureau of Medical Services before an adjustment in the per diem rate will be made. Adjustment in reimbursement may be made for courses commencing July 1, 1986 or later for those costs not previously included in the facility's base year.

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7100 New Facilities

At the start of participation in the program, available historical data relating to a provider's costs will be received by the State of Maine Department of Human Services and an interim prospective payment rate will be established for such provider. This rate will be based on the rate approved by the Department in accordance with the provisions of the Maine Certificate of Need Act. The rate approved by the Department in accordance with the provisions of the Maine Certificate of Need Act for a facility's first year of operation will be adjusted at the time the facility opens to reflect actual inflation since the approval of the Certificate of Need. The facility's second year prospective rate will be based on the second year projected rate approved under the Maine Certificate of Need Act adjusted for actual inflation since the approval of the Certificate of Need and the current projected rate of inflation during the second year.

7150 Transfer of Ownership

In the case of a sale of a facility, the Department will review the new owner's Certificate of Need application and evaluate the appropriateness and reasonableness of the capital related costs as well as operating costs. The Department will establish a prospective rate for the new owner of the facility based on its analysis under the Certificate of Need process.

7200 Extraordinary Circumstances Allowance

Facilities which experience unforeseen and uncontrollable events during a year which result in unforeseen or uncontrollable increases in expenses, may request an adjustment to a prospective rate in the form of an extraordinary circumstance allowance. Extraordinary circumstances include, but are not limited to:

- events of a catastrophic nature (fire, flood, etc.)
- unforeseen minimum wage or Social Security increases
- changes in licensure or accreditation requirements

If the Department concludes that an extraordinary circumstance existed, an adjustment will be made by the Department in the form of a supplemental allowance.

The Department will determine from the nature of the extraordinary circumstance whether it would have a continuing impact and therefore whether the allowance should be included in the computation of the base rate for the succeeding year.

7210 Serious Problems of Recruitment and Retention of Nursing and Direct Service Staff

Facilities which experience serious problems in recruiting and retaining nursing and/or direct service staff may request an adjustment to their prospective rate. If the Department determines that the criteria set forth in Sections 7210.1 to 7210.9 below are met, an adjustment will be made in the form of a supplemental

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allowance from the time of approval and through the first full fiscal year, and the actual expenditures from this supplemental allowance will be included in the computation of the base rate for succeeding years.

Nursing staff includes the Director of Nursing, Registered Professional Nurses, Licensed Practical Nurses and Certified Nursing Assistants. Recent graduates of nursing educational programs may be included as nursing staff pending the results of the first licensing examination available following graduation. Anyone enrolled immediately upon employment in a certified nursing assistant course to be completed within six months from the date of employment may be included as nursing staff until such time as the course is completed.

Direct service staff includes persons who are responsible for the day-to-day habilitation of the residents, including the Qualified Mental Retardation Professional, social service and activities staff, but not including housekeeping, maintenance, laundry, dietary and administrative personnel.

7210.1 Documentation of staffing problems

- A. The facility must document that staffing problems exist. The following information must be submitted to meet this requirement:
 - 1. Turnover rate, as evidenced by number of FTE and number of new employees for category of staff during past six months;
 - 2. Copy of latest approved staffing pattern, as shown on form BMS LC-93;
 - 3. Length of employment of each CNA/Direct Service or member of nursing staff, or list of current employees showing date of first employment;
 - 4. Number of nursing/direct service staff hours paid at overtime rate;
- B. If applicable and available, the following information would provide additional evidence of staffing problems;
 - 1. Record of use of nursing "pool" or temporary help agencies to fill staffing needs;
 - 2. Copies of any staffing deficiencies cited by the Division of Licensing and Certification;
 - 3. Summary of employee termination interviews or reasons given for resignations.
- C. Any other information that objectively documents staffing problems will be considered.

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7210.2 Documentation of recruitment efforts

The facility must submit a summary statement indicating what efforts have been made to recruit staff, what responses have resulted from their efforts and any other relevant information.

7210.3 Documentation of retention incentives

The facility must submit evidence of the incentives presently in place to encourage continued employment. To fulfill this criteria, the facility must submit the following information:

- A. Copy of salary plan, if any, including current wage scales by category of nursing staff, and direct service staff, including starting hourly wage, highest wage paid, and average hourly wage for all Employees in category (R.N., L.P.N., CNA);
- B. Fringe benefits offered including number of paid holidays, vacation days, sick days, health insurance benefits; and by whom paid (whether by employee, share by facility, etc.), and costs of fringe benefits;
- C. Bonuses, pension plans, shift differential;
- D. Historical pattern of wage increases offered by the facility to employees in each category.

7210.4 Other relevant circumstances

If there are any unusual circumstances impacting on the recruitment and retention of nurses and direct service/CNA's, these should be described.

7210.5 Additional criteria to be considered

- A. The following additional criteria will be considered by the Department in determining the need for an adjustment in the per diem rate:
 - 1. Determination of whether admissions have been curtailed due to lack of adequate staffing;
 - 2. Comparison of wage increases from base year to current year in relation to inflation as reflected in increases in per them rates;
 - 3. Review of outstanding deficiencies and action taken to correct deficiencies.
- B. The adjustment being requested will be considered in relation to data available to Health Care Audit for other facilities.

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7210.6 Current staffing and base year

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A copy of Schedule IX of the MaineCare Cost Report showing only the actual hours worked, with holiday, vacation and sick time being shown as fringe benefits, must be submitted. The costs for these benefits should be shown separately so the average wage paid would be based on hours worked. Schedule IX should be submitted for the current year and also the base year computed the same way.

7210.7 Adjustment being requested

The following must be submitted:

- A. The specific hourly increase being requested by category of employee;
- B. Any additional fringe benefits if proposed and cost of such benefits;
- C. A calculation of the total increased cost divided by prior years total patient days to convert to additional per them cost.

7210.8 Basis for granting adjustment

- A. Approval of an increase in the per diem rate to adjust wages will be based on the following considerations, whether:
 - 1. The facility has increased the average hourly wages for each category of staff at a rate that is at least equal to the inflation index computed by Data Resources, Inc. (DRI);
 - 2. Fringe benefits of vacation and sick leave are reasonable and comparable to those of other businesses in the area which employ the same labor pool, and whether those benefits are as much as or greater than they were in the base year;
 - 3. The facility's wages are generally below wage levels in comparable facilities;
 - 4. Staffing has not been in accordance with approved staffing ratios or has not met minimum standards due to inability to recruit qualified staff to fill positions;
 - 5. There is evidence of bona fide efforts to recruit nursing/direct service staff;
 - 6. Turnover of staff has been at a consistently high rate;
 - 7. There has been high usage of temporary or "pool" employees;

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8. There are highly competitive labor market conditions as evidenced by the unemployment rate for the area;
9. Opportunities for training and opportunities to advance skills have been offered;
10. The facility has experienced a financial loss on MaineCare members related to staffing costs.

Eff 8/1/03

B. An adjustment may be denied if the Department establishes any one of the following:

1. The average hourly wages by category of staff have not been increased in accordance with the inflation index computed by Data Resources, Inc. (DRI);
2. The facility has failed to demonstrate that there have been retention and recruitment problems;
3. The average hourly wages by category of staff which are built into the facility's rate of reimbursement exceed the average hourly wages by category of staff employed by long-term care facilities in the same geographic region.
4. The facility has failed to take necessary and reasonable administrative actions to identify and address factors leading to high turnover;
5. There is sufficient evidence that management of the facility has permitted inefficient operation, has not been responsive to the need to correct problems or deficiencies identified or has not offered adequate training, supervision and staff support to nursing staff employed in the facility;
6. There has been a profit on MaineCare members resulting in a substantial "savings" to the facility which has not been reinvested to address staffing problems.

Eff 8/1/03

C. If the Department determines that an adjustment is needed to address serious problems of recruitment and retention of nursing/direct service staff, the adjustment may be for all or any part of the amount requested. Any adjustment will be limited to the difference between the amount approved under these rules and the amount built into a facility's rate of reimbursement through the annual DRI Inc. increases. (In other words, the adjustment under this rule is not intended to make up any difference between what a facility has actually paid its staff and what is built into the facility's previously approved rate.) The Department may grant an adjustment for salary increases or for increases in paid vacation and/or holiday benefits and/or other benefits.

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7210.9 Effective date of adjustment

- A. Any adjustment in the per diem rate will be effective the first day of the month following the submission of information to support the request for an adjustment.
- B. Depending upon the availability of funds, retroactive adjustments will be made to facilities who have granted reasonable wage increases, greater than the DRI inflationary factor, in order to deal with staffing shortages in the facility which were identified. prior to the effective date of these rules.

7210.10 All funds granted under this section are considered a supplemental allowance and as such any funds not expended for the purpose for which granted will be recouped in future audits.

7300 Innovative Programs

In order to encourage the development of innovative programs, practices or patient care techniques in ICFs for the mentally retarded, the Department will request proposals from facilities to demonstrate an innovative way to provide services to enhance the quality of life of the members.

7310 Funding

The amount of funds available for these projects is subject to the determination by the Department. Upon approval of a project, the per diem rate will be adjusted in the form of a supplemental rate limited in duration to the length of the project.

7320 Criteria for Approval of Services

Only those costs of innovative projects that directly benefit the members and their care will be eligible for funding. The costs must meet the standards in Section 1000 of these Principles of Reimbursement, but can be used to expand the scope of some services, change method of delivering the service, or some other innovative use of funds, and must benefit the facility.

7330 Selection of Projects

The Department will establish an Advisory Committee representing professional associations, the BDS, Advocates for the Developmentally Disabled and other interested parties to review proposals for innovative projects and make recommendations to the Department. Final approval for funding will be the responsibility of the Department.

7340 Evaluation of Projects

Quarterly reports on a form approved by the Department are to be submitted for each project within 15 days of the end of each quarter. Upon receipt of the third

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quarter reports a summary of the quarterly reports is to be prepared and distributed to the Advisory Committee. This Committee will be convened at least 45 days prior to the end of the funding year for the Innovative Projects to review the quarterly reports and determine which of the following actions should be taken:

- 1) Funding for the project should not be continued;
- 2) The project should be funded for a second year;
- 3) The project should become an ongoing program for this facility and continued as part of the per diem rate; or
- 4) A recommendation should be made to the Bureau of Medical Services, Department of Human Services to Include this project as an allowable cost for all general ICFs-MR.

| Eff 8/1/03

A project may be funded as an Innovative Program for no more than two years.

7400 Retroactive Adjustment for Food, Fuel, and "Other" Expenses

After the first prospective year, the department will make a retroactive adjustment for the increase in the costs of food, fuel and "other" expenses (excluding wages and employee benefits) if the actual inflation for those items is more than 1% greater than the projected inflation for those items at the time the prospective rate was set. This will be done as follows:

DRI contracts a nursing home market basket of routine services which includes the following elements and their weights* in the index.

Wages and salaries	.599
Employee benefits	.085
Food	.091
Fuel and other utilities	.057
Other expenses	<u>.169</u>
	1.001

Assume the following projected and actual inflation in the non-salary and employee benefits categories:

	Inflation Rate		Weight
	Projected	Actual	
Food	7.5%	9%	.091

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Fuel	8.3%	10%	.057
Other	<u>7.8%</u>	<u>10.4%</u>	<u>.169</u>
Weight average	7.9%	10%	.3170
Index	8.05	-	1.00

If the actual weighted average inflation rate of the food, fuel and "other" expenses categories (as reported by DRI; e.g., 10%) is more than 1% greater than the projected weighted average inflation rate of those categories (e.g., 7.9%), then the Department will make an adjustment. In calculating the adjustment, the Department will pay the difference between 1% and the variance between the projected and actual inflation rate. The rate calculated after a retroactive adjustment will be the rate used to determine any savings and will also be the maximum amount the Department will pay if a facility has spent more than its prospective rate.

*The weights in the index change slightly over time. The weights which are used to construct the weighted average index for purposes of the retroactive adjustment will be the weights published by DRI at the time of the projection. 66

Example

Facility X had a base year variable cost component of \$30.55 and a final prospective year rate of \$33.00 (\$30.55 x 1.08). Actual inflation in food, fuel and "other" expenses was 2.1% (10.0% - 7.9%) greater than the DRI projection used in establishing the prospective rate. An adjustment of 1.1% (2.1% - 1.0%) will be made to the first year prospective rate as follows:

Variable Cost Component

Weight	Base Year	Prospective Year	
Salary + benefits	(.683)	20.869	22.539
Food, fuel, other	<u>(.3170)</u>	<u>9.6861</u>	<u>10.461</u>
	1.0	30.55 (x 1.08)	33.00

The base year per diem attributable to food, fuel and "other" costs will be adjusted by 1.1% and that amount will be added to the first year prospective rate. In this example, the base year variable cost component attributable to food, fuel and other expenses was \$9.6861 (.3170 x 30.55). This amount will be adjusted by 1.1% as follows:

$$\$9.6861 \times .011 = .11 \text{ (adjustment)}$$

The readjusted prospective year rate is \$33.11 (\$33.00 + \$.11).

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The readjusted prospective year rate of \$33.11 shall be used by the Department to determine any savings in the first year and will also be the maximum amount the Department will pay if the facility spent more than its prospective rate.

The above example applies to the first year in the prospective system only. In the second and succeeding years, any adjustments for under predictions of inflation will be offset by any over predictions of inflation in the previous year. If the prediction of the rate of inflation for food, fuel and "other" expenses in the previous year was overstated by .5% or more, the year end adjustment in the second and succeeding years for any under predictions of inflation will be reduced by the difference between .5% and the variance between the projected and actual inflation.

Example

Assume the preceding example applied to a facility after its second prospective year. Assume, also, that the prediction for the rate of inflation for food, fuel and other expenses in the calculation of the first year prospective rate was overstated by .6%. The amount of the adjustment after the second prospective year is:

% of overstatement in first year	.6%
less .5% <u>-.5%</u>	
Adjustment for overstatement in first year	.1%
Adjustment for understatement after second year (see previous example)	1.1%
% adjustment after second prospective year	1.1% - .1% = 1.0%

The second year prospective rate attributable to food, fuel and "other" costs will be adjusted by 1.0% and that rate will be the maximum amount the Department will pay if the facility spent more than its prospective rate.

7500 Adjustment for Unrestricted Grants or Gifts

Unrestricted federal or State grants or gifts received by a facility and which have been deducted from operating costs for purposes of reimbursement will be added back to the variable cost component for purposes of calculating a base rate.

7600 Adjustments for Appeal Decisions

The Department will adjust any interim or final prospective rate to reflect appeal decisions made subsequent to the establishment of those rates.

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7700 Adjustments for Capital Costs

Upon request the Department will adjust the fixed cost component of an interim or final prospective rate to reflect increases in capital costs which have been approved under Section 1122 of the Social Security Act or the Maine Certificate of Need Act.

| Eff 8/1/03 7800 Base Salary Adjustments (ICF-MR Group Homes)

| Eff 8/1/03 The average base salary amount for direct care personal services in ICF-MR Group Homes shall be increased to \$5.00/hour.

For facilities with a fiscal year beginning July 1, 1982, the first year prospective rate will be adjusted to reflect an average \$5.00/hour base salary amount multiplied by the number of approved direct care hours.

For facilities with a fiscal year beginning after July 1, 1982, the rate in effect will be adjusted to reflect an average \$5.00/hour base salary amount multiplied by the number of approved direct care hours.

8000 **APPEAL PROCEDURES - START UP COSTS - DEFICIENCY RATE - RATE LIMITATION**

8010 Procedures

A. A facility may administratively appeal any of the following types of Division of Audit determination:

1. Audit Adjustment
2. Calculation of final prospective rate
3. Adjustment of final prospective rate or a refusal to make such an adjustment pursuant to these Principles.

B. An Administrative appeal will proceed in the following manner:

1. Within 30 days of receipt of an audit or other appealable determination, the facility must request, in writing, an informal review before the Director of the Division of Audit or his/her designee. The facility, must forward, with the request, any and all specific information it has relative to the issues in dispute, note the monetary amount each issue represents and identify the appropriate principle supporting the request. Only issues presented in this manner and time frame will be considered at an informal review or at a subsequent administrative hearing.
2. The Director or his/her designee shall notify the facility in writing of the decision made as a request of such informal review. If the facility disagrees with the results of the informal review, the facility may request an administrative hearing before the Commissioner or a presiding officer

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designated by the Commissioner. Only issues presented in the informal review will be considered at the administrative hearing. A request for an administrative hearing must be made, in writing, within 30 days of receipt of the decision made as a result of the informal review.

3. To the extent the Department rules in favor of the facility, the audit report or prospective rate will be corrected.

8020 Start-up Costs

8021 General

In the period of developing a provider's ability to furnish patient care services, certain costs are incurred. The costs incurred during this time of preparation are referred to as start-up costs. Since these costs are related to patient care services rendered after the time of preparation, they must be capitalized as deferred charges and amortized over a number of benefiting periods.

Start-up costs include, for example, administrative and nursing salaries, heat, gas, and electricity, taxes, insurance, mortgage and other interest, employee training costs, repairs and maintenance, housekeeping, and any other allowable costs incident to the start-up period. However, any costs that are properly identifiable as organization costs, or which may be capitalized as construction costs, must be appropriately classified as such and excluded from start-up costs.

8022 Applicability

Start-up costs are incurred from the time preparation begins on a newly constructed or purchased building, wing, floor, unit, or expansion thereof to the time the first member is admitted for treatment, or where the start-up costs apply only to nonrevenue-producing patient care functions or nonallowable functions, to the time the areas are used for their intended purposes. If a provider intends to prepare all portions of its entire facility at the same time, start-up costs for all portions of the facility should be accumulated in a single deferred charge account and should be amortized when the first member is admitted for treatment. However, if a provider intends to prepare portions of its facility on a piecemeal basis (i.e., preparation of a floor or wing of a provider's facility is delayed), start-up costs would be capitalized and amortized separately for the portion(s) of the provider's facility prepared during different time periods. Moreover, if a provider expands its facility by constructing or purchasing additional buildings or wings, start-up costs should be capitalized and amortized separately for these areas.

Start-up costs that are incurred immediately before a provider enters the program and that are determined to be immaterial by the Department need not be capitalized, but rather, may be charged to operations in the first cost reporting period. In the case where a provider incurs start-up costs while in the program and these costs are determined to be immaterial by the Department, these costs need not be capitalized, but may be charged to operations in the periods incurred.,

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For program reimbursement purposes, costs of the provider's facility and building equipment should be depreciated over the lives of these assets starting with the month the first member is admitted for treatment, subject to the provider's method of determining depreciation in the year of acquisition or construction. Where portions of the provider's facility are prepared for patient care services after the initial start-up period, these asset costs applicable to each portion should be depreciated over the remaining lives of the applicable assets. If the portion of the facility is a patient care area, depreciation should start with the month the first member is admitted for treatment. If the portion of the facility is a nonrevenue-producing patient care area or nonallowable area, depreciation should begin when the area is opened for its intended purpose. Costs of major movable equipment, however, should be depreciated over the useful life of each item starting with the month the item is placed into operation.

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8030 Cost Treatment for Reimbursement

8031 Where a provider prepares all portions of its facility for patient care services at the same time and has capitalized start-up costs, the start-up costs must be amortized ratably over a period of 60 consecutive months beginning with the month in which the first member is admitted for treatment.

| Eff 8/1/03

8032 Where a provider prepares portions of its facility for patient care services on a piecemeal basis, start-up costs must be capitalized and amortized separately for the portions of the provider's facility that are prepared for patient care services during different periods of time.

8040 Deficiency per diem rate. When a facility is found not to have provided the quality of service or level of care required, reimbursement will be made on 90% of the provider's per diem rate. This "deficiency rate" will be applied following written notification to the facility of the effective date of the reduced rate for any of the following service deficiencies:

8041 Staffing over a period of two weeks or more does not meet the Federal Certification and State Licensing requirements, except where there is written documentation of a good faith effort to employ licensed nurses to meet the licensed nurse requirements over and above the full time director of nursing;

8042 Food service does not meet the Federal Certification and State Licensing requirements;

8043 Specific, documented evidence that the care provided does not meet the Federal Certification and State Licensing requirements. Such penalty to be effective no sooner than 30 days from written notification that such deficiencies exist;

8044 Failure to correct, within the time frames of an accepted Plan of Correction, deficiencies in meeting the Federal Certification and State Licensing requirements, which cause a threat to the health and safety of members in a facility or the surrounding community;

8045 Failure to submit cost reports and maintain auditable records as required.

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A reduction in rate because of service deficiencies shall remain in effect until the deficiencies have been corrected, as verified by representatives of the Department of Human Services, following written notification by the provider that the deficiencies no longer exist. No retroactive adjustments to the full rate shall be made for the period that the deficiency rate is in effect.

8050 Limitation

8051 In no case may payment exceed the facility's customary charges to the general public for such services. This determination will be based on the Principles described in the Medicare Provider Manual (HIM-15) in effect at the time of such determination.

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8052 Medicare Upper Limit. In no case may payment exceed the amount that would have been paid under the MaineCare Principles of Reimbursement, Title 42, Code of Federal Regulations, Part 405, Subpart D, including the cost limits on routine service costs established by the Secretary of Health and Human Services pursuant to Title 42, Code of Federal Regulations §405.460 and in effect at the time the costs are incurred.

STATUTORY AUTHORITY: 22 MRSA §42(1)

EFFECTIVE DATE:

July 1, 1982 (filing 82-116)

AMENDED:

July 1, 1983 -	Section 4170 (filing 83-165)
October 1, 1984 -	Introduction (Savings Clause), Sections 3011, 3012, 4180, 7012 (filing 84-337)
July 1, 1985 -	Section 4170 (filing 85-296)
July 1, 1986 -	Section 4165 (filing 86-210)
July 1, 1986 -	Sections 4112.1, 4170 (filing 86-233)
March 1, 1987 -	Sections 4111, 4112, 4120 (filing 87-77)
April 15, 1987 -	Sections 7300 through 7340 (filing 87-118)
January 1, 1988 -	Section 4170 (filing 87-441)
April 3, 1988 -	Section 7210 (filing 88-98)
April 1, 1989 -	Sections 2031, 5012, 7012, 7020, 7030, 7072, 7075.2, 7076, 7080, 7095, 8000 (filing 89-462)
March 10, 2001 -	entire chapter reconstructed in electronic format from the above filings and submitted to the Department of Human Services for examination